

Drum or Black Drum to be sold, offered for sale, or possessed in this State; providing that any legal size salt water fish may be filleted for the purpose of freezing and selling to market in a frozen condition; providing how such fish shall be measured with or without the heads; providing for places of venue in cases for violations; providing for a penalty for violations of this Act; repealing all laws in conflict herewith; and declaring an emergency,"

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

WEINERT, Chairman.

Committee Room,  
October 25, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Game and Fish, to whom was referred

H. B. No. 80, A bill to be entitled "An Act placing a closed season on shrimp in the inland salt waters of this State from and between the 1st day of July to the 15th day of August or from and between the 25th day of December and the 15th day of March of any year; providing that shrimp may be taken at any time of the year, with certain tackle, for bait; providing a penalty for violations of this Act; providing for the seizing of tackle for evidence; repealing Section 1-D of Article 941 and all laws in conflict herewith; and declaring an emergency,"

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be not printed.

WEINERT, Chairman.

Committee Room,  
October 25, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Counties and County Boundaries, to whom was referred

S. B. No. 28, A bill to be entitled "An Act to amend Paragraph (4) of Article 2350, Title 44, of the Re-

vised Civil Statutes of the State of Texas, 1925, as added by the Acts of 1937, Forty-fifth Legislature, House Bill No. 765, and declaring an emergency,"

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be not printed.

SPEARS, Chairman.

October 22, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Enrolled Bills, beg to report we have carefully examined, compared and read S. B. No. 11, and find same correctly enrolled.

WESTERFELD, Chairman.

October 25, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Engrossed Bills, beg to report we have carefully examined, compared and read Senate Bills Nos. 15 and 23, and find same correctly engrossed.

ROBERTS, Chairman.

October 25, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Engrossed Bills, beg to report we have carefully examined, compared and read Senate Concurrent Resolutions Nos. 8 and 10, and find same correctly engrossed.

ROBERTS, Chairman.

## SIXTEENTH DAY

(Tuesday, October 26, 1937)

The Senate met at 10 o'clock a. m., pursuant to adjournment, and was called to order by President Woodul.

The roll was called, and the following Senators were present:

Aikin	Cotten
Beck	Davis
Brownlee	Head
Burns	Hill
Collie	Holbrook

Isbell	Shivers
Lemens	Small
Moore	Spears
Neal	Stone
Nelson	Sulak
Newton	Van Zandt
Oneal	Weinert
Pace	Westerfeld
Rawlings	Winfield
Redditt	Woodruff
Roberts	

A quorum was announced present.

The invocation was offered by the Chaplain.

On motion of Senator Aikin, and by unanimous consent, the reading of the Journal of the proceedings of the fifteenth legislative day was dispensed with, and the Journal was approved.

#### Petitions and Memorials

Senator Moore submitted a communication relating to old age assistance, which was read to the Senate.

Senator Holbrook submitted a resolution of the County Judges and Commissioners Association, relating to venue of suits involving title to public land vacancies, which was read to the Senate, as follows:

Resolution No. 17, presented at the State Convention in Amarillo, by Judge Oscar Barber of Matagorda County:

Whereas, A condition has arisen in connection with the school lands of Texas wherein it is becoming more and more apparent that great injustices and hardships are being imposed on the citizens of Texas, who are in possession of these lands in good faith and under deed over a period of time that extends back even as far as the date when this land was under the government of Mexico and subsequently the time that Texas was a republic. Men, who in good faith under deed or deeds, who have been in possession of these lands, on which taxes have been paid, in many instances as much as one hundred years; where their children and children's children have been raised, are now being ousted as the result of some vacancy hunters having filed application to declare the land vacant land, and to lease or purchase same; and

Whereas, If an oil well has been brought in within five miles of this land, those in possession under deed, are precluded by Article 5421c, Section 2 of Vernons Statutes from purchasing the land already held under deed, and on which a life's savings has been expended in the form of betterment and improvement; and

Whereas, In most instances the lease on the land is awarded to the vacancy hunter for a nominal consideration as a reward for his having found a vacancy, and the one in possession under claim of right and by deed is denied the right to even purchase the surface of this land; and

Whereas, It is the intent and purpose of all law to be just to its citizens, and to protect them in the possession of their homes; therefore, be it

Resolved by the County Judges and Commissioners' Association of Texas, in annual convention assembled at Amarillo, Texas, on October the 14th, 15th, and 16th, 1937:

#### I

That Article 5421-c, Sections 2 and 6 be amended so that where a vacancy is determined and said lands are under possession of one holding the same under deed or deeds for more than ten years and having paid taxes thereon, shall be entitled to notice of the establishment of such vacancy and to purchase said land in preference to any other purchaser, and for a nominal consideration, the state, however, reserving to itself one-sixteenth of the royalty on oil, gas and minerals in and under same.

#### II

That where the existence of a vacancy shall be litigated that the venue of such litigation shall be exclusively in the county in which the vacancy is alleged to exist.

#### III

That vacancy hunters be discouraged, by the sale and/or lease of vacant lands, under such terms and conditions as, that the vacancy hunter has no preferential right to purchase such vacancy when same may be established; and be it further

Resolved, That the Association bitterly opposes, and condemns the prac-

tice of those men, who, for the bettering of their own selfish interest, would be a party to a practice that would cause a fellow citizen to lose that home for which he and his family have sacrificed a life of labor to build; and be it further

Resolved, That a copy of this resolution be delivered to each body constituting the Legislature of Texas; to the Governor, the Attorney General and the Land Commissioner of Texas, and the Press of the State.

Resolution Committee: O. C. Dancy, Cameron County; Henry L. Carter, Smith County; R. N. Stripling, San Augustine County; C. W. Massey, Brazoria County.

Attest: JAKE J. LOY, Secretary,  
County Judges and Commissioners' Association of Texas.

H. M. LAFONT, President,  
County Judges and Commissioners' Association of Texas.

On motion of Senator Burns, the foregoing resolution was ordered printed in the Journal.

Senator Van Zandt submitted the following communication, which was read to the Senate:

The State Board of Texas Federation of Garden Clubs urges that bill boards be taxed as a source of revenue for Texas.

MRS. R. E. HUTCHISON,  
Secretary, Texas Federation of Garden Clubs.

#### Report of Standing Committee

Senator Pace submitted the following report:

Committee Room,  
October 26, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

H. B. No. 97, A bill to be entitled "An Act repealing H. B. No. 809, Acts of the Forty-fifth Legislature, Regular Session, 1937, and declaring an emergency,"

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

PACE, Chairman.

#### Senate Concurrent Resolution No. 16

Senator Brownlee offered the following resolution:

S. C. R. No. 16, relative to the participation by the State of Texas in the Swedish American Tercentenary Celebration of 1938:

Whereas, The year 1938 will mark the three hundredth anniversary of the first permanent settlement in the United States by Swedish colonists in the Delaware River Valley and the establishment of the Colony of New Sweden; and

Whereas, There is to be held at Wilmington, Delaware, and Philadelphia, Pennsylvania, and at other places during the year 1938 an interstate and international Swedish American Tercentenary Celebration commemorating the three hundredth anniversary of the said first permanent settlement; and

Whereas, The Congress of the United States has created a Commission to participate in the Celebrations and the President of the United States has extended to the Government and people of Sweden an invitation to "unite with the Government and people of the United States in a fitting and appropriate observance of the three hundredth anniversary of the first permanent settlement of Swedish colonists in Delaware, Pennsylvania and New Jersey"; and

Whereas, The State of Texas numbers among its citizens many people of Swedish descent who are prominent in the agricultural, industrial, professional and educational activities of the State, and are in turn honored and respected by the State of Texas; and

Whereas, It is proposed to give special recognition in the Tercentenary Celebration programs to the Centennial of the arrival in the Republic of Texas in 1938 of the first Swedish settler, coinciding in point of time with the modern migration from Sweden to the United States; and

Whereas, It is highly fitting that the State of Texas and its citizens of Swedish descent should participate and be represented in the celebration of the anniversary of this significant event in the history of our country; now, therefore, be it

Resolved by the Senate of Texas, the House of Representatives concur-

ring herein: That the Governor of the State of Texas is hereby requested to appoint five citizens of this State, who are of Swedish descent, to serve as representatives of the State of Texas at the Swedish American Tercentenary Celebration, the same to serve without cost or compensation from the State of Texas.

The resolution was read, and by unanimous consent, it was considered at this time and was adopted.

#### Senate Concurrent Resolution No. 17

Senator Shivers offered the following resolution:

Whereas, H. B. No. 161, H. B. No. 151, and H. B. No. 167, have passed the House of Representatives and are pending in the Senate; therefore, be it

Resolved, That all rules be suspended to allow consideration and passage of H. B. Nos. 161, 151, and H. B. No. 167.

SHIVERS,  
BURNS.

The resolution was read, and by unanimous consent, it was considered at this time and was adopted.

#### Senate Concurrent Resolution No. 18

Senator Neal offered the following resolution:

Be it resolved by the Senate, the House concurring, That Joint Rule No. 9 be suspended as to H. B. No. 70, S. B. No. 32, H. B. No. 124, H. B. No. 146, and H. B. No. 81.

The resolution was read, and by unanimous consent, it was considered at this time.

Senator Spears offered the following amendment to the resolution:

Amend by adding House Bills Nos. 129 and 102.

The amendment was adopted.

Senator Moore offered the following amendment to the resolution:

Amend by adding the words:  
"and H. B. 20."

Yeas and nays were demanded, and the amendment was lost by the following vote:

Yeas—14

Brownlee Holbrook

Moore  
Neal  
Rawlings  
Roberts  
Shivers  
Small

Spears  
Stone  
Sulak  
Van Zandt  
Weinert  
Winfield

Nays—14

Aikin  
Burns  
Collie  
Cotten  
Head  
Hill  
Isbell

Lemens  
Nelson  
Newton  
Oneal  
Redditt  
Westerfeld  
Woodruff

Present—Not Voting

Pace

Absent

Beck

Davis

Senator Newton moved to reconsider the vote by which the amendment was lost.

Yeas and nays were demanded, and the motion to reconsider prevailed by the following vote:

Yeas—15

Brownlee  
Holbrook  
Moore  
Neal  
Newton  
Rawlings  
Roberts  
Shivers

Spears  
Stone  
Sulak  
Van Zandt  
Weinert  
Westerfeld  
Winfield

Nays—13

Aikin  
Burns  
Collie  
Cotten  
Head  
Hill  
Isbell

Lemens  
Nelson  
Oneal  
Pace  
Redditt  
Woodruff

Absent

Beck  
Davis

Small

Question—Shall the amendment be adopted?

Yeas and nays were demanded, and the amendment was lost by the following vote:

Yeas—14

Brownlee  
Holbrook  
Moore  
Neal  
Newton  
Rawlings  
Roberts

Shivers  
Spears  
Stone  
Sulak  
Weinert  
Westerfeld  
Winfield

## Nays—14

Aikin	Lemens
Burns	Nelson
Collie	Oneal
Cotten	Pace
Head	Redditt
Hill	Van Zandt
Isbell	Woodruff

## Absent

Beck	Small
Davis	

Senator Neal offered the following amendment to the resolution:

I move that H. B. No. 73 be included in S. C. R. No. 18, to suspend the rules so that certain bills can be taken up.

The amendment was adopted.

Senator Hill offered the following amendment to the resolution:

Amend S. C. R. No. 18 by adding H. B. No. 144.

Yeas and nays were demanded, and the amendment was adopted by the following vote:

## Yeas—17

Burns	Newton
Cotten	Oneal
Head	Pace
Hill	Redditt
Holbrook	Shivers
Isbell	Spears
Lemens	Westerfeld
Neal	Woodruff
Nelson	

## Nays—5

Aikin	Roberts
Brownlee	Stone
Moore	

## Present—Not Voting

Van Zandt	Weinert
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## Absent

Beck	Small
Collie	Sulak
Davis	Winfield
Rawlings	

Senator Winfield offered the following amendment to the resolution:

Amend resolution by adding S. B. No. 28.

The amendment was adopted.

Senator Sulak offered the following amendment to the resolution:

Amend S. C. R. No. 18 by adding H. B. No. 97.

The amendment was adopted.

Senator Woodruff offered the following amendment to the resolution:

Amend S. C. R. No. 18 by adding H. B. No. 119.

Senator Pace offered the following amendment to the amendment:

Amend the pending amendment by adding thereto H. B. No. 141.

Senator Woodruff moved to table the amendment to the amendment.

Yeas and nays were demanded, and the motion to table was lost by the following vote:

## Yeas—9

Aikin	Sulak
Cotten	Weinert
Holbrook	Winfield
Isbell	Woodruff
Roberts	

## Nays—17

Brownlee	Rawlings
Burns	Redditt
Davis	Shivers
Hill	Small
Moore	Spears
Neal	Stone
Nelson	Van Zandt
Oneal	Westerfeld
Pace	

## Absent

Beck	Lemens
Collie	Newton
Head	

Senator Woodruff asked unanimous consent to withdraw the amendment.

The President announced there was objection to the amendment being withdrawn.

Question recurring on the amendment to the amendment, yeas and nays were demanded.

The amendment to the amendment was adopted by the following vote:

## Yeas—18

Beck	Nelson
Brownlee	Newton
Burns	Pace
Collie	Rawlings
Cotten	Redditt
Davis	Small
Hill	Spears
Moore	Van Zandt
Neal	Westerfeld

## Nays—9

Aikin	Sulak
Holbrook	Weinert
Isbell	Winfield
Roberts	Woodruff
Stone	

## Absent

Head	Oneal
Lemens	Shivers

The amendment as amended was adopted.

Question recurring on the resolution as amended, yeas and nays were demanded.

The resolution as amended was lost by the following vote:

## Yeas—19

Beck	Pace
Burns	Rawlings
Collie	Redditt
Cotten	Shivers
Davis	Small
Hill	Spears
Neal	Van Zandt
Nelson	Westerfeld
Newton	Winfield
Oneal	

## Nays—11

Aikin	Roberts
Brownlee	Stone
Head	Sulak
Holbrook	Weinert
Isbell	Woodruff
Moore	

## Absent

Lemens

## Senate Concurrent Resolution No. 19

Senator Hill offered the following resolution:

Resolved by the Senate of the State of Texas, the House of Representatives concurring, That Joint Rule 9 of the Legislature of the State of Texas be suspended in order to take up and finally pass H. B. No. 144, H. B. No. 102, H. B. No. 129, H. B. No. 97.

Senator Hill moved the previous question on the resolution, and the motion was not seconded.

Senator Moore offered the following amendment to the resolution:

## Amend by adding "H. B. No. 20."

Senator Nelson raised a point of order on consideration of the amendment, on the ground that the same amendment, offered to another resolution, was defeated, and a motion to reconsider the vote by which it was defeated was lost.

Senator Moore demanded an immediate ruling on the point of order, and the demand was duly seconded.

The President overruled the point of order.

Senator Hill moved to table the amendment.

Yeas and nays were demanded, and the motion to table was lost by the following vote:

## Yeas—14

Aikin	Isbell
Beck	Nelson
Burns	Oneal
Collie	Pace
Cotten	Redditt
Head	Small
Hill	Woodruff

## Nays—15

Brownlee	Shivers
Davis	Spears
Holbrook	Stone
Moore	Sulak
Neal	Weinert
Newton	Westerfeld
Rawlings	Winfield
Roberts	

## Absent

Lemens

Van Zandt

Question recurring on the amendment, yeas and nays were demanded.

The amendment was adopted by the following vote:

## Yeas—16

Brownlee	Roberts
Davis	Shivers
Holbrook	Spears
Moore	Stone
Neal	Sulak
Newton	Weinert
Pace	Westerfeld
Rawlings	Winfield

## Nays—13

Aikin	Burns
Beck	Collie

Cotten  
Head  
Hill  
Isbell  
Nelson

Oneal  
Redditt  
Small  
Woodruff

Absent

Lemens

Van Zandt

Senator Hill moved to table the resolution.

Yeas and nays were demanded, and the motion to table prevailed by the following vote:

Yeas—20

Aikin  
Beck  
Burns  
Collie  
Cotten  
Head  
Hill  
Isbell  
Moore  
Nelson

Oneal  
Pace  
Redditt  
Roberts  
Shivers  
Stone  
Sulak  
Weinert  
Westerfeld  
Woodruff

Nays—6

Brownlee  
Davis  
Holbrook

Neal  
Newton  
Spears

Present—Not Voting

Rawlings

Small

Absent

Lemens

Winfield

Van Zandt

#### Report of Conference Committee on House Bill No. 78

Senator Neal submitted the following report of the conference committee on H. B. No. 78:

Hon. Walter F. Woodul, President of the Senate; Hon. Robt. W. Calvert, Speaker, House of Representatives.

Sirs: We, your Conference Committee to whom was referred H. B. No. 78 to adjust the differences between the two Houses

Have had same under consideration and beg leave to report back the following draft of said bill and recommend its adoption by both Houses.

Respectfully submitted,

NEAL,  
WEINERT,  
HOLBROOK,  
RAWLINGS,

On the part of the Senate;

LEONARD,  
LEYENDECKER,  
CELAYA,  
POPE,

On the part of the House.

By Leonard.

H. B. No. 78.

#### A BILL

#### To Be Entitled

An Act amending H. B. No. 99, Acts of the Regular Session of the Forty-fifth Legislature as amended by S. B. No. 24 of the First Called Session of the Forty-fifth Legislature by amending Section 25 of said H. B. No. 99 by providing that any person purchasing citrus fruit from and dealer qualified as such, and paying therefor in current money of the United States, shall be exempt from giving the bond provided for in the Act and providing that such person applying for license shall indicate on his application that he desires to operate as a cash buyer, buying only from qualified dealers, prescribing the rights of such cash citrus dealer and providing the amount of license fee, a penalty for violation and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. Section 25 of H. B. No. 99, Acts Regular Session Forty-fifth Legislature, as amended by S. B. No. 24, Acts of the First Called Session of the Forty-fifth Legislature, is hereby amended so that same shall hereafter read as follows:

"Section 25. Any person who purchases citrus fruit only from dealers duly qualified as such under this Act, and pays therefor prior to or at the time of delivery or taking possession of such citrus fruit so purchased in current money of the United States, shall be exempt from giving the bond provided for in this Act and such person shall indicate on his application for license that he desires to operate as a cash buyer, buying only from dealers duly qualified as such under this Act, in accordance with the provisions of this section and thereupon such person shall be entitled to a license as a cash citrus dealer, purchasing only from dealers duly qualified under this Act, upon the payment by such applicant of the license fee as required under this Act. Such dealers shall be subject to all the pertinent provisions of this Act. Any

violation of this section shall be deemed a misdemeanor and be punishable, as provided in Section 21 of this Act.

Any producer handling or dealing in his own products exclusively, shall be licensed, upon application, by the Commissioner of Agriculture without charge and without being required to give a bond.

Section 2. The fact that no useful purpose will be served in requiring a bond under the terms of this Act of a cash buyer as hereinabove defined, and that it will be to the interest of the industry affected, to immediately amend said Acts so as to eliminate the requiring of a bond for cash buyers, creating an emergency and imperative necessity, that the constitutional rule requiring bills to be read on three several days, be suspended and said rule is here now suspended and this Act shall take effect and be in full force from and after its passage.

Senator Neal moved that the report be adopted.

The report was adopted by the following vote:

Yeas—27

Beck	Rawlings
Brownlee	Redditt
Burns	Roberts
Collie	Shivers
Cotten	Small
Head	Spears
Hill	Stone
Holbrook	Sulak
Isbell	Van Zandt
Moore	Weinert
Neal	Westerfeld
Nelson	Winfield
Newton	Woodruff
Pace	

Nays—2

Aikin	Oneal
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Absent

Davis	Lemens
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Report of Conference Committee on House Bill No. 69

Senator Neal submitted the following report of the Conference Committee on H. B. No. 69:

Hon. Walter F. Woodul, President of the Senate; Hon. Robt. W. Calvert, Speaker, House of Representatives. Sirs: We, your Conference Com-

mittee, to whom was referred H. B. No. 69, to adjust the differences between the two Houses, have had same under consideration and beg leave to report back the following draft of said bill and recommend its adoption by both Houses.

Respectfully submitted,

NEAL,  
MOORE,  
WEINERT,  
SHIVERS,

On the part of the Senate;

LEONARD,  
CELAYA,  
VALE,  
JONES of  
Atascosa,  
POPE,

On the part of the House.

By Leonard.

H. B. No. 69.

A BILL

To Be Entitled

An Act to validate annexation proceedings of Home Rule cities where such annexation proceedings took place prior to April 1, 1930; and validating all proceedings, actions, and contracts and the exercise of dominion and governmental functions over such annexed territory; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That all ordinances and proceedings and all actions, proceedings, and contracts taken or made in pursuance thereof, heretofore undertaken by virtue of Article 1175, Revised Civil Statutes of Texas of 1925, providing for the extension of the corporate limits of Home Rule Cities by any city which at such time was acting under a Home Rule charter, and which such ordinances, actions, proceedings, and contracts were undertaken prior to April 1, 1930, are hereby ratified and confirmed, and such extensions of the city limits of such cities so undertaken, as well as all proceedings and contracts taken or made in pursuance thereof and the exercise of dominion and governmental functions over such added territory by extension shall be deemed and held valid in all respects and to the same extent as if done under legislative authority previously given. The provisions of this Act shall apply only to cities having a population of not less than 8,920 nor more than 9,580, according to the last preceding Federal Census.



Section 2. The fact that there are Home Rule cities in the State of Texas which have been exercising city government over annexed territory for a long period of time, and in some cases there is a question as to some such cities having in all things regularly made such annexation that it becomes imperative that all such questions be at this time settled, and the same creates an emergency requiring that the constitutional rule requiring bills to be read in each House on three several days be suspended, and said Rule is hereby suspended, and that this Act become in full force and effect upon its passage, and it is so enacted.

Senator Neal moved that the report be adopted.

The motion prevailed by the following vote:

## Yeas—29

Beck	Pace
Brownlee	Rawlings
Burns	Redditt
Collie	Roberts
Cotten	Shivers
Davis	Small
Head	Spears
Hill	Stone
Holbrook	Sulak
Isbell	Van Zandt
Lemens	Weinert
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff
Newton	

## Nays—2

Aikin	Oneal
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## Senate Concurrent Resolution No. 20

Senator Pace offered the following resolution:

Be it Resolved by the Senate, the House of Representatives concurring, that Joint Rule No. 9 and all other Rules be and the same is hereby suspended in order that the Senate may consider until final passage H. B. No. 141.

The resolution was read.

Senator Van Zandt moved the previous question on the resolution and the motion was duly seconded.

Yeas and nays were demanded, and the main question was ordered by the following vote:

## Yeas—18

Brownlee	Nelson
Burns	Newton
Collie	Oneal
Cotten	Pace
Head	Rawlings
Hill	Shivers
Lemens	Spears
Moore	Van Zandt
Neal	Westerfeld

## Nays—9

Aikin	Stone
Beck	Sulak
Holbrook	Weinert
Isbell	Woodruff
Roberts	

## Absent

Davis	Small
Redditt	Winfield

Question then recurring on the resolution, yeas and nays were demanded.

The resolution was lost by the following vote (not receiving the necessary two-thirds vote):

## Yeas—18

Brownlee	Oneal
Burns	Pace
Collie	Rawlings
Cotten	Redditt
Davis	Shivers
Hill	Spears
Neal	Van Zandt
Nelson	Westerfeld
Newton	Winfield

## Nays—11

Aikin	Roberts
Beck	Stone
Head	Sulak
Holbrook	Weinert
Isbell	Woodruff
Moore	

## Absent

Lemens	Small
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Vote on Senate Resolution No. 25  
Reconsidered

Senator Head submitted the following motion in writing:

I move that the Senate reconsider the vote by which S. R. No. 25 (refusing the request of the House for a conference committee on H. B. No. 23) passed.

Senator Rawlings raised a point of order on consideration of the motion, on the ground that the resolution to

which it refers is not now in possession of the Senate.

The President overruled the point of order.

Yeas and nays were demanded, and the motion to reconsider prevailed by the following vote:

## Yeas—21

Aikin	Nelson
Beck	Newton
Burns	Oneal
Cotten	Pace
Davis	Redditt
Head	Shivers
Hill	Small
Isbell	Van Zandt
Lemens	Westerfeld
Moore	Woodruff
Neal	

## Nays—10

Brownlee	Spears
Collie	Stone
Holbrook	Sulak
Rawlings	Weinert
Roberts	Winfield

Question—Shall the resolution be adopted?

Senator Head moved to table the resolution.

Yeas and nays were demanded, and the motion to table prevailed by the following vote:

## Yeas—18

Aikin	Moore
Beck	Neal
Burns	Nelson
Cotten	Redditt
Davis	Shivers
Head	Small
Hill	Van Zandt
Isbell	Westerfeld
Lemens	Woodruff

## Nays—12

Brownlee	Roberts
Collie	Spears
Holbrook	Stone
Oneal	Sulak
Pace	Weinert
Rawlings	Winfield

## Absent

Newton

Conference Committee on House Bill No. 23

Senator Head moved that the request of the House as made for a

conference committee to adjust the differences between the two Houses on H. B. No. 23 be granted.

Senator Rawlings submitted the following amendment to the motion:

We move that the conferees on the part of the Senate be instructed to retain in any bill that the conferees agree upon the Senate amendment by Senator Spears, or the substance thereof, and also the amendment by Senator Rawlings with reference to special fees and taxes; that the conferees write into the bill the principle of these two amendments, the purposes of which are to reduce the departmental appropriations and to get control of enforcement fees and taxes and stop waste and extravagance.

RAWLINGS,  
WEINERT.

Senator Moore moved the previous question on the amendment and the motion and the main question was ordered.

Question first recurring on the amendment, yeas and nays were demanded.

The amendment was lost by the following vote:

## Yeas—14

Aikin	Roberts
Brownlee	Shivers
Collie	Spears
Holbrook	Stone
Isbell	Sulak
Pace	Weinert
Rawlings	Winfield

## Nays—17

Beck	Nelson
Burns	Newton
Cotten	Oneal
Davis	Redditt
Head	Small
Hill	Van Zandt
Lemens	Westerfeld
Moore	Woodruff
Neal	

Question next recurring on the motion of Senator Head, yeas and nays were demanded.

The motion prevailed by the following vote:

## Yeas—25

Aikin	Beck
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Burns	Oneal
Collie	Pace
Cotten	Redditt
Davis	Roberts
Head	Shivers
Hill	Small
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff
Newton	

Nays—6

Brownlee	Spears
Holbrook	Stone
Rawlings	Weinert

The President, accordingly, appointed the following conferees on the bill on the part of the Senate: Senators Burns, Small, Moore, Cotten and Redditt.

#### Messages From the House

A Clerk from the House was recognized to present the following message:

Hall of the House of Representatives,  
Austin, Texas,  
October 26, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following resolutions:

H. C. R. No. 57, Suspending all necessary Joint Rules of the House and Senate for the purpose of taking up and considering until final disposition of H. B. Nos. 80, 142, and 165.

H. C. R. No. 58, Suspending necessary Joint Rules of the House and the Senate for the purpose of taking up and considering until final disposition of the following bills:

House Bills Nos. 129, 102, 73, 61, 97, 109, and Senate Bills Nos. 16 and 25.

The House refused to concur in Senate amendments to H. B. No. 74 and has requested the appointment of a conference committee to consider the differences between the two houses. The following have been appointed on the part of the House: Messrs. Baker, Hankamer, King, Brown, Knetsch.

H. C. R. No. 51, Directing the State Highway Department to permit the Public Service Corporation of Texas to construct a pipe line across the Canadian River Bridge.

H. C. R. No. 61, Suspending all necessary rules to permit the Senate to take up and consider H. B. No. 70 until final disposition.

The House has adopted the Conference Committee report on H. B. No. 78 by a vote of 124 ayes, 1 no.

Respectfully submitted,

LOUISE SNOW PHINNEY,  
Chief Clerk, House of Representatives.

#### Bills and Resolutions Signed

The President signed, in the presence of the Senate, after giving due notice thereof, and their captions had been read, the following enrolled resolutions and bills:

H. C. R. No. 50, Relating to establishing a cotton research laboratory.

S. C. R. No. 12, Authorizing and instructing the Governor to appoint a commission to be known as "The New York World's Fair and San Francisco Golden Gate Exposition Commission for Texas."

S. C. R. No. 13, Authorizing and empowering the State Highway Commission and the Board of County and District Indebtedness to conduct an investigation of the ways and means of reducing the present county and district road indebtedness.

H. B. No. 59, "An Act validating the proceedings of the County Board of School Trustees of Taylor County in annexing the Iberis Common School District No. 38 of Wylie Consolidated Common School District No. 11; fixing the metes and bounds of Wylie Consolidated Common School District No. 11, Taylor County; validating all proceedings had in an election held on the 26th day of June, 1937, on the proposition of assuming the bonds of Wylie Consolidated Common School District No. 11 issued prior to the formation of the present Wylie Consolidated Common School District No. 11, and on the proposition of issuing \$15,000.00 schoolhouse bonds of said Wylie Consolidated Common School District No. 11, and declaring an emergency."

H. B. No. 62, "An Act authorizing, consenting to, and granting permission to John Wiese, Lonnie Wiese, and Tom Wiese to sue the State of Texas and the Highway Department for damages to their land; providing a saving clause; and declaring an emergency."

H. B. No. 110, "An Act amending Article 1048 of the Revised Civil Statutes of Texas, 1925."

H. B. No. 113, "An Act granting Frank Dees and Mrs. George Armstrong, and husband George Armstrong, of Brewster County, Texas, permission to bring suit against the State of Texas and the State Highway Department, in the District Court of Brewster County, Texas, for damages sustained to their property by the construction of roadbed and culverts adjacent to their land upon State Highway Number 3, in Brewster County, Texas; impounding water on such land, washing and destroying said land; providing that such suit may be filed within two (2) years after this Act takes effect; providing for the method of serving process and for procedure governing the trial and determination of such suit, and declaring an emergency."

H. B. No. 130, "An Act amending Section 3 of the Uniform Narcotic Drug Act, as enacted by the Forty-fifth Legislature at its Regular Session in 1937 by House Bill No. 440, so as to require any apothecary to obtain a license before supplying narcotic drugs, and by amending said Act further by adding a new section to be numbered Section 24 (a) providing a conviction under said Act may be had on uncorroborated testimony of an accomplice, and declaring an emergency."

H. B. No. 148, "An Act amending Section 19 (f) of Article 3912E, also known as Section 19 (f) of Acts of the Second Called Session of the Forty-fourth Legislature, Chapter 465, page 1762, to make adequate provision for the compensation of court reporters appointed by the district or criminal district attorney in any county having a population of not less than two hundred and ninety thousand (290,000) nor more than three hundred and twenty thousand (320,000) inhabitants according to the last preceding Federal Census; and declaring an emergency."

H. B. No. 163, "An Act providing the time when mourning doves and white-winged doves may be shot in Collin, Dallas, Delta, Denton, Franklin, Haskell, Hopkins, Hunt, Jack, Johnson, Kaufman, Montague, Parker, Rockwall, and Wise Counties making certain exceptions; fixing the bag limit and possession limit of same; fixing the hours for shooting and making regulations for shotguns that may be used for shooting migratory birds and other game birds; providing a penalty for the violation of any such regulations; repealing all laws in conflict with any section of this Act; and declaring an emergency."

H. B. No. 164, "An Act to amend H. B. No. 52, Chapter 18, Acts of the Forty-third Legislature, Fourth Called Session, so as to provide that the governing body of any city, or town having a population of twelve thousand, four hundred and ten (12,410) inhabitants or less, according to the last preceding Federal Census, and owning and operating its municipal waterworks system and municipal light system in this State, in making up the annual appropriations of the income and revenue of waterworks system, electric lights system, etc., shall first provide for maintenance and operating expenses; etc., and declaring an emergency."

#### House Concurrent Resolution No. 32

The President laid before the Senate, for consideration at this time:

H. C. R. No. 32, Authorizing the Live Stock Sanitary Commission to dispose of certain wire fence between the States of Texas and Louisiana.

The resolution was adopted.

#### House Concurrent Resolution No. 31

The President laid before the Senate for consideration at this time:

H. C. R. No. 31, Granting permission to Martin Brothers, General Contractors, permission to sue the State of Texas for property damages.

The resolution was adopted.

#### Senate Concurrent Resolution No. 14

The President laid before the Senate, for consideration at this time:

S. C. R. No. 14, Authorizing Charles Workman to sue the State.

The resolution was adopted.

**House Concurrent Resolution No. 46**

The President laid before the Senate, for consideration at this time:

H. C. R. No. 46, Urging the Congress of the United States to enact certain farm legislation.

The resolution was adopted.

**House Concurrent Resolution No. 43**

The President laid before the Senate, for consideration at this time:

H. C. R. No. 43, Requesting certain State agencies not to compete with private industries in the sale of shrubs and evergreens.

The resolution was read.

Question—Shall the resolution be adopted?

**Leaves of Absence**

On motion of Senator Moore and by unanimous consent, Senators Burns, Small, Redditt, Cotten and Moore were granted leave of absence for the remainder of today, on account of important work as members of the Conference Committee on H. B. No. 23.

**Recess**

Senator Stone moved that the Senate recess to 2:30 o'clock p. m. today.

Yeas and nays were demanded, and the motion prevailed by the following vote:

**Yeas—21**

Aikin	Rawlings
Collie	Redditt
Cotten	Shivers
Davis	Spears
Head	Stone
Holbrook	Sulak
Lemens	Van Zandt
Moore	Weinert
Nelson	Westerfeld
Oneal	Woodruff
Pace	

**Nays—10**

Beck	Neal
Brownlee	Newton
Burns	Roberts
Hill	Small
Isbell	Winfield

The Senate, accordingly, at 12 o'clock m., took recess to 2:30 o'clock p. m. today.

**AFTERNOON SESSION**

The Senate met at 2:30 o'clock p. m. and was called to order by the President.

**House Concurrent Resolution No. 43**

The Senate resumed consideration of pending business, same being H. C. R. No. 43, relating to competitive sale of nursery stock by State agencies.

Question—Shall the resolution be adopted?

The resolution was adopted.

**House Concurrent Resolution No. 61**

The President laid before the Senate:

H. C. R. No. 61, Suspending rules to permit consideration of H. B. No. 70.

By unanimous consent, the resolution was considered at this time and was adopted unanimously.

**Conference Committee on House Bill No. 74**

Senator Oneal moved that the request of the House for a conference committee to adjust the differences between the two Houses on H. B. No. 74 be granted.

The motion prevailed.

Accordingly, the President appointed the following conferees on the bill on the part of the Senate: Senators Oneal, Sulak, Winfield, Head and Newton.

**House Concurrent Resolution No. 58**

The President laid before the Senate:

H. C. R. No. 58, Suspending rules to permit consideration of House Bills Nos. 102, 129, 73, 161, 97, 109, and Senate Bills Nos. 16 and 25.

The resolution was read, and by unanimous consent it was considered at this time and unanimously adopted.

**House Bill No. 70 on Passage to Third Reading**

The President laid before the Senate, as postponed business, on its passage to third reading (the bill having been read second time on October 21, 1937):

H. B. No. 70, A bill to be entitled "An Act relating to drainage districts; validating all orders heretofore entered converting said drainage districts into districts operating under Section 59 of Article XVI of the Constitution and creating and declaring such districts to be legally existing; authorizing districts operating under such provisions of the Constitution to borrow money from the Reconstruction Finance Corporation for refunding purposes and to issue refunding bonds and levy a tax in payment thereof; prescribing the method of issuing said refunding bonds; providing a method whereby the functions of drainage commissioners may be exercised by the Commissioners' Court of the county wherein such drainage district is wholly situated; providing that if any of the provisions hereof are held to be invalid, such holding shall not affect the remaining provisions, and declaring an emergency."

The bill was passed to third reading.

**House Bill No. 70 on Third Reading**

Senator Neal moved that the constitutional rule requiring bills to be read on three several days be suspended, and that H. B. No. 70 be placed on its third reading and final passage.

The motion prevailed by the following vote:

**Yeas—26**

Aikin	Neal
Beck	Nelson
Brownlee	Newton
Collie	Oneal
Davis	Pace
Head	Rawlings
Hill	Roberts
Holbrook	Shivers
Isbell	Spears
Lemens	Stone

Sulak	Westerfeld
Van Zandt	Winfield
Weinert	Woodruff

**Absent—Excused**

Burns	Redditt
Cotten	Small
Moore	

The President then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

**Yeas—21**

Beck	Newton
Brownlee	Oneal
Collie	Roberts
Davis	Shivers
Head	Spears
Hill	Sulak
Holbrook	Van Zandt
Isbell	Westerfeld
Lemens	Winfield
Neal	Woodruff
Nelson	

**Nays—3**

Aikin	Stone
Rawlings	

**Present—Not Voting**

Pace	Weinert
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**Absent—Excused**

Burns	Redditt
Cotten	Small
Moore	

Senator Neal moved to reconsider the vote by which the bill was passed.

The motion to reconsider prevailed.

Question—Shall the bill be passed?

Senator Neal offered the following (committee) amendments to the bill:

**(1)**

Amend Section 2 by striking out the words "indebtedness of such district whether evidenced by notes, bonds, warrants, judgment or otherwise" and insert in lieu thereof the following: "bonds and for the purpose of paying or securing funds to pay judgments heretofore or hereafter rendered against such District, and for the purpose of paying or to secure funds to pay warrants issued

to pay judgments or to settle or compromise litigation."

(2)

Amend Section 3 by inserting immediately before the first words thereof the following: "In instances wherein the indebtedness refunded includes obligations other than voted bonds."

The (committee) amendments were adopted unanimously.

The bill again was passed by the following vote:

Yeas—23

Beck	Oneal
Brownlee	Roberts
Collie	Shivers
Davis	Spears
Head	Stone
Hill	Sulak
Holbrook	Van Zandt
Isbell	Weinert
Lemens	Westerfeld
Neal	Winfield
Nelson	Woodruff
Newton	

Nays—2

Aikin Rawlings

Present—Not Voting

Pace

Absent—Excused

Burns	Redditt
Cotten	Small
Moore	

#### House Bill No. 161 on Second Reading

The President laid before the Senate, on its second reading and passage to third reading:

H. B. No. 161, A bill to be entitled "An Act to validate elections held to elect seven trustees in independent school districts created by special Act providing for a board of five trustees in such district; providing that the Board of Trustees elected at such elections is hereby constituted the Board of Trustees for such districts; providing that such districts shall hereafter elect seven trustees in accordance with the provisions of the General Law governing the election of seven trustees in independent school districts, under which they are now acting; validating bonds voted

by such district but not yet issued and all bonds issued by such districts and now outstanding; etc., and declaring an emergency."

On motion of Senator Shivers, and by unanimous consent, Senate Rules Nos. 31, 31a and 48 were suspended severally, to permit consideration of the bill at this time.

The bill was read second time and was passed to third reading.

#### House Bill No. 161 on Third Reading

Senator Shivers moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 161 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—26

Aikin	Oneal
Beck	Pace
Brownlee	Rawlings
Collie	Roberts
Davis	Shivers
Head	Spears
Hill	Stone
Holbrook	Sulak
Isbell	Van Zandt
Lemens	Weinert
Neal	Westerfeld
Nelson	Winfield
Newton	Woodruff

Absent—Excused

Burns	Redditt
Cotten	Small
Moore	

The President then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—26

Aikin	Oneal
Beck	Pace
Brownlee	Rawlings
Collie	Roberts
Davis	Shivers
Head	Spears
Hill	Stone
Holbrook	Sulak
Isbell	Van Zandt
Lemens	Weinert
Neal	Westerfeld
Nelson	Winfield
Newton	Woodruff

## Absent—Excused

Burns	Redditt
Cotten	Small
Moore	

## House Bill No 151 on Second Reading

The President laid before the Senate, on its second reading and passage to third reading:

H. B. No. 151, A bill to be entitled "An Act ratifying, validating and confirming all waterworks system revenue refunding bonds and all sewer system revenue refunding bonds heretofore authorized, issued, exchanged and delivered by cities in Texas operating under the provisions of special charters and which refunding bonds have been heretofore validated and confirmed by a final decree of a United States District Court in Texas, and providing that such refunding bonds so authorized, issued, exchanged and delivered shall be and constitute valid and binding obligations upon the revenues of such systems, and declaring an emergency."

(President Pro Tempore in the Chair.)

On motion of Senator Collie and by unanimous consent, Senate Rules 31, 31a and 48 were suspended severally to permit consideration of the bill at this time.

The bill was read second time and was passed to third reading.

## House Bill No. 151 on Third Reading

Senator Collie moved that the constitutional rule requiring bills to be read on three several days be suspended, and that H. B. No. 151 be placed on its third reading and final passage.

The motion prevailed by the following vote:

## Yeas—26

Aikin	Lemens
Beck	Neal
Brownlee	Nelson
Collie	Newton
Davis	Oneal
Head	Pace
Hill	Rawlings
Holbrook	Roberts
Isbell	Shivers

Spears	Weinert
Stone	Westerfeld
Sulik	Winfield
Van Zandt	Woodruff

## Absent—Excused

Burns	Redditt
Cotten	Small
Moore	

The President Pro Tempore then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

## Yeas—26

Aikin	Oneal
Beck	Pace
Brownlee	Rawlings
Collie	Roberts
Davis	Shivers
Head	Spears
Hill	Stone
Holbrook	Sulik
Isbell	Van Zandt
Lemens	Weinert
Neal	Westerfeld
Nelson	Winfield
Newton	Woodruff

## Absent—Excused

Burns	Redditt
Cotten	Small
Moore	

## Message From the House

A Clerk from the House was recognized to present the following message:

Hall of the House of Representatives,  
Austin, Texas,  
October 26, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following resolution:

S. C. R. No. 17, Suspending all Rules of the House and Senate to consider House Bills Nos. 161, 167, and 151.

Respectfully submitted,  
LOUISE SNOW PHINNEY,  
Chief Clerk, House of Representatives.

## House Bill No. 102 on Second Reading

The President Pro Tempore laid before the Senate, on its second reading and passage to third reading:



H. B. No. 102, A bill to be entitled "An Act to amend H. B. No. 821 of the Acts of the Regular Session of the Forty-fourth Legislature and finding and declaring that there exist in the State insanitary or unsafe dwelling accommodations; that there is a shortage of safe or sanitary dwelling accommodations available at rents which persons of low income can afford; that such conditions constitute a menace to the health, safety, morals and welfare of the residents of the State and impair the economic values; that slum areas cannot be cleared through the operation of private enterprise; etc., and declaring an emergency."

On motion of Senator Spears and by unanimous consent, Senate Rules Nos. 31, 31a and 48 were suspended severally to permit consideration of the bill at this time.

The bill was read second time and was passed to third reading.

#### House Bill No. 102 on Third Reading

Senator Spears moved that the constitutional rule requiring bills to be read on three several days be suspended, and that H. B. No. 102 be placed on its third reading and final passage.

The motion prevailed by the following vote:

#### Yeas—26

Aikin	Oneal
Beck	Pace
Brownlee	Rawlings
Collie	Roberts
Davis	Shivers
Head	Spears
Hill	Stone
Holbrook	Sulak
Isbell	Van Zandt
Lemens	Weinert
Neal	Westerfeld
Nelson	Winfield
Newton	Woodruff

#### Absent—Excused

Burns	Redditt
Cotten	Small
Moore	

The President Pro Tempore then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

#### Yeas—25

Aikin	Oneal
Beck	Pace
Brownlee	Rawlings
Collie	Roberts
Davis	Shivers
Head	Spears
Hill	Sulak
Holbrook	Van Zandt
Isbell	Weinert
Lemens	Westerfeld
Neal	Winfield
Nelson	Woodruff
Newton	

#### Nays—1

Stone

#### Absent—Excused

Burns	Redditt
Cotten	Small
Moore	

#### House Bill No. 129 on Second Reading

The President Pro Tempore laid before the Senate, on its second reading and passage to third reading:

H. B. No. 129, A bill to be entitled "An Act to amend Article 5559, Title 92, of the Revised Civil Statutes of Texas, 1925, relating to record of proceedings and notice in lunacy proceedings, so as to provide that the County Clerk shall be required to enter in the minutes of the Court only the judgments of the Court rendered in lunacy proceedings; providing for the commitment and confinement of insane persons, and the manner thereof; the furnishing of a transcript of the proceedings relating thereto; repealing all laws and parts of laws in conflict herewith; and declaring an emergency."

On motion of Senator Spears, and by unanimous consent, Senate Rules Nos. 31, 31a and 48 were suspended severally, to permit consideration of the bill at this time.

The bill was read second time and was passed to third reading.

#### House Bill No. 129 on Third Reading

Senator Spears moved that the constitutional rule requiring bills to be read on three several days be suspended, and that H. B. No. 129 be placed on its third reading and final passage.

The motion prevailed by the following vote:

## Yeas—26

Aikin	Oneal
Beck	Pace
Brownlee	Rawlings
Collie	Roberts
Davis	Shivers
Head	Spears
Hill	Stone
Holbrook	Sulak
Isbell	Van Zandt
Lemens	Weinert
Neal	Westerfeld
Nelson	Winfield
Newton	Woodruff

## Absent—Excused

Burns	Redditt
Cotten	Small
Moore	

The President Pro Tempore then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

## Yeas—19

Beck	Newton
Brownlee	Oneal
Collie	Roberts
Davis	Spears
Head	Sulak
Hill	Van Zandt
Holbrook	Westerfeld
Lemens	Winfield
Neal	Woodruff
Nelson	

## Nays—7

Aikin	Shivers
Isbell	Stone
Pace	Weinert
Rawlings	

## Absent—Excused

Burns	Redditt
Cotten	Small
Moore	

## House Bill No. 73 on Second Reading

The President Pro Tempore laid before the Senate, on its second reading and passage to third reading:

H. B. No. 73, A bill to be entitled "An Act validating, ratifying and confirming all bond issues heretofore voted and issued, or which have been voted and not yet issued, of all common school districts, common consolidated school districts, rural high

school districts and independent school districts, regardless of whether said bonds mature in serial annual installments or not, and declaring an emergency."

On motion of Senator Hill and by unanimous consent, Senate Rules Nos. 31, 31a and 48 were suspended severally, to permit consideration of the bill at this time.

The bill was read second time.

Senator Hill offered the following (committee) amendments to the bill:

## (1)

Amend H. B. No. 73 by striking out all reference to population.

## (2)

Amend H. B. No. 73 by amending the caption to conform to the bill as amended by Committee Amendment No. 1.

The amendments were adopted severally.

The bill was passed to third reading.

## House Bill No. 73 on Third Reading

Senator Hill moved that the constitutional rule requiring bills to be read on three several days be suspended, and that H. B. No. 73 be placed on its third reading and final passage.

The motion prevailed by the following vote:

## Yeas—26

Aikin	Oneal
Beck	Pace
Brownlee	Rawlings
Collie	Roberts
Davis	Shivers
Head	Spears
Hill	Stone
Holbrook	Sulak
Isbell	Van Zandt
Lemens	Weinert
Neal	Westerfeld
Nelson	Winfield
Newton	Woodruff

## Absent—Excused

Burns	Redditt
Cotten	Small
Moore	

The President Pro Tempore then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

## Yeas—24

Beck	Pace
Brownlee	Rawlings
Collie	Roberts
Davis	Shivers
Head	Spears
Hill	Stone
Holbrook	Sulak
Lemens	Van Zandt
Neal	Weinert
Nelson	Westerfeld
Newton	Winfield
Oneal	Woodruff

## Nays—2

Aikin	Isbell
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## Absent—Excused

Burns	Redditt
Cotten	Small
Moore	

**House Concurrent Resolution No. 57**

The President Pro Tempore laid before the Senate:

H. C. R. No. 57, Suspending rules to allow H. B. Nos. 142, 165 and 180 to be considered.

The resolution was read, and by unanimous consent, it was considered at this time and unanimously adopted.

**Senate Concurrent Resolution No. 21**

Senator Winfield offered the following resolution:

Be it Resolved by the Senate, the House of Representatives concurring, That Joint Rule No. 9 and all other rules be suspended so that S. B. No. 28 may be taken up and passed.

The resolution was read, and by unanimous consent it was considered at this time and was adopted unanimously.

**House Bill No. 142 on Second Reading**

The President Pro Tempore laid before the Senate, on its second reading and passage to third reading:

H. B. No. 142, A bill to be entitled "An Act to validate school districts attempted to be established by the

annexation or joining of a part of a county line common school district to a contiguous school district after an election held in said common school district to divide it and/or annex or join a part or parts thereof to a contiguous district or districts whether by order of a county board of school trustees or of a County Commissioners' Court where said election resulted favorably to division and/or annexation or joining and said order of annexation or joining was in accordance with the terms of the order calling said election pertaining to said division and/or annexation, and where said order was made by County Board or Commissioners' Court of a county containing a part of said County Line Common School District, etc., and declaring an emergency."

On motion of Senator Aikin, and by unanimous consent, Senate Rules Nos. 31, 31a and 48 were suspended severally, to permit consideration of the bill at this time.

The bill was read second time.

On motion of Senator Aikin, the bill was tabled subject to call.

**Resolutions and Bills Signed**

The President Pro Tempore signed in the presence of the Senate, after giving due notice thereof, the following enrolled bills and resolutions:

H. C. R. No. 44, Granting Russ Mitchell Incorporated, permission to sue the State and State Highway Department on contract.

H. C. R. No. 29, Granting Tyler Pipe Line Company permission to sue the State for recovery of payment of excessive franchise taxes.

H. B. No. 38, "An Act to amend H. B. No. 141, Chapter 427, of the Acts of the Second Called Session of the Forty-fourth Legislature by amending Section 4 thereof by adding a new section to be designated Section 4a further specifying general and specific powers to be had and exercised by the Nueces River Conservation and Reclamation District including the power of condemnation and other specific enumerated powers, but without limitation upon the general or specific powers other-

wise conferred upon said District by said H. B. No. 141, Chapter 427, or by the Constitution of Texas, or by any other General or Special Law; etc., and declaring an emergency."

H. B. No. 135, "An Act amending Article 3881, Revised Civil Statutes of Texas, 1925, relating to weights of sacks of feeding stuffs, and declaring an emergency."

H. B. No. 149, "An Act applicable in the counties of Mason, Menard, Kerr, Schleicher, Crockett, Sutton, Kimble, Real, Edwards, Blanco, Llano, Kendall, Gillespie, El Paso, Hudspeth, Culberson, Val Verde, Kinney, Maverick, Terrell, Brewster, Harris and Burnet of the State of Texas, requiring a hunting license of any resident citizen of the State hunting in any of said counties with certain exemptions; requiring a fishing license of all persons residing in the State of Texas and fishing in said counties or in any stream forming a part of the boundary line of any of said counties and for such distance of such stream forms a part of the boundary of any of the aforementioned counties; etc., and declaring an emergency."

#### Senate Concurrent Resolution No. 22

Senator Stone offered the following resolution:

Be it Resolved by the Senate, the House of Representatives concurring, That all joint rules of the House and Senate be, and they are hereby, suspended for the purpose of taking up and considering H. B. No. 81, now in the Senate until same is finally disposed of.

The resolution was read, and by unanimous consent, it was considered at this time and was adopted unanimously.

#### Recess

On motion of Senator Weinert, the Senate, at 3 o'clock p. m., took recess to 8 o'clock p. m. today.

#### NIGHT SESSION

The Senate met at 8 o'clock p. m., and was called to order by the President.

#### House Bill No. 142 on Passage to Third Reading

Senator Aikin called from the President's table, on its passage to third reading (the bill having been read second time and tabled subject to call today):

H. B. No. 142, A bill to be entitled "An Act validating certain school districts established by the annexation of a part of a county line common school district to a contiguous school district, etc., and declaring an emergency."

The President laid the bill before the Senate on its passage to third reading.

The bill was passed to third reading.

#### House Bill No. 142 on Third Reading

Senator Aikin moved that the constitutional rule requiring bills to be read on three several days be suspended and that House Bill No. 142 be placed on its third reading and final passage.

The motion prevailed by the following vote:

#### Yeas—26

Aikin	Oneal
Beck	Pace
Brownlee	Rawlings
Collie	Roberts
Davis	Shivers
Head	Spears
Hill	Stone
Holbrook	Sulak
Isbell	Van Zandt
Lemens	Weinert
Neal	Westerfeld
Nelson	Winfield
Newton	Woodruff

#### Absent—Excused

Burns	Redditt
Cotten	Small
Moore	

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time, and was passed by the following vote:

## Yeas—26

Aikin	Oneal
Beck	Pace
Brownlee	Rawlings
Collie	Roberts
Davis	Shivers
Head	Spears
Hill	Stone
Holbrook	Sulak
Isbell	Van Zandt
Lemens	Weinert
Neal	Westerfeld
Nelson	Winfield
Newton	Woodruff

## Absent—Excused

Burns	Redditt
Cotten	Small
Moore	

**House Bill No. 97 on Second Reading**

The President laid before the Senate, on its second reading and passage to third reading,

H. B. No. 97, A bill to be entitled "An Act repealing House Bill No. 809, Acts of the Forty-fifth Legislature, Regular Session, 1937, and declaring an emergency."

On motion of Senator Sulak, and by unanimous consent, Senate Rules 31, 31a, and 48 were suspended, severally, to permit consideration of the bill at this time.

The bill was read second time, and was passed to third reading.

**House Bill No. 97 on Third Reading**

Senator Sulak moved that the constitutional rule requiring bills to be read on three several days be suspended, and that House Bill No. 97 be placed on its third reading and final passage.

The motion prevailed by the following vote:

## Yeas—26

Aikin	Oneal
Beck	Pace
Brownlee	Rawlings
Collie	Roberts
Davis	Shivers
Head	Spears
Hill	Stone
Holbrook	Sulak
Isbell	Van Zandt
Lemens	Weinert
Neal	Westerfeld
Nelson	Winfield
Newton	Woodruff

## Absent—Excused

Burns	Redditt
Cotten	Small
Moore	

The President then laid the bill before the Senate, on its third reading and final passage.

The bill was read third, and was passed by the following vote:

## Yeas—26

Aikin	Oneal
Beck	Pace
Brownlee	Rawlings
Collie	Roberts
Davis	Shivers
Head	Spears
Hill	Stone
Holbrook	Sulak
Isbell	Van Zandt
Lemens	Weinert
Neal	Westerfeld
Nelson	Winfield
Newton	Woodruff

## Absent—Excused

Burns	Redditt
Cotten	Small
Moore	

**Message From the House**

A Clerk from the House was recognized to present the following message:

Hall of the House of Representatives,  
Austin, Texas, October 26, 1937.  
Hon. Walter F. Woodul, President  
of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill and resolutions:

H. C. R. No. 62, Suspending all rules of the House and Senate to permit the House and Senate to consider, until final disposition, House Bill No. 147.

H. C. R. No. 63, Authorizing the Enrolling Clerk of the House to amend the caption of House Bill No. 78 to conform to the body of the bill.

H. C. R. No. 65, Suspending all necessary Joint Rules for the consideration, until final disposition, of House Bill No. 124.

H. C. R. No. 66, Suspending all necessary rules to allow the consideration and passage of House Bill No. 118.

H. C. R. No. 54, Authorizing the State Park Board to transfer back to the City of Nocona, Montague County, certain lands at any time it may see fit to do so.

S. B. No. 16, A bill to be entitled "An Act to exempt from county supervision of its schools all independent school districts in certain counties regardless of the population of said districts, and declaring an emergency" (with amendments).

S. C. R. No. 8, Granting L. M. Anderson permission to sue the State of Texas and the State Highway Department.

Respectfully submitted,  
LOUISE SNOW PHINNEY,  
Chief Clerk, House of Representatives.

#### House Concurrent Resolution No. 51

The President laid before the Senate:

H. C. R. No. 51, Directing the State Highway Department to permit gas line to be erected on the bridge across the Canadian River.

The resolution was read, and by unanimous consent, it was considered at this time and was adopted.

#### Senate Bill No. 16 with House Amendments

Senator Davis called Senate Bill No. 16 from the President's table for consideration of the House amendments to the bill.

The President laid the bill before the Senate and the House amendments were read.

Question—Shall the Senate concur in the House amendments?

The Senate concurred in the House amendments by the following vote:

Yeas—31

Aikin	Lemens
Beck	Moore
Brownlee	Neal
Burns	Nelson
Collie	Newton
Cotten	Oneal
Davis	Pace
Head	Rawlings
Hill	Redditt
Holbrook	Roberts
Isbell	Shivers

Small  
Spears  
Stone  
Sulak  
Van Zandt

Weinert  
Westerfeld  
Winfield  
Woodruff

#### House Concurrent Resolution No. 63

The President laid before the Senate:

H. C. R. No. 63, Authorizing correction in enrolled copy H. B. No. 78.

The resolution was read, and by unanimous consent, it was considered at this time and was adopted.

#### Senate Resolution No. 27

Senator Small offered the following resolution:

Resolved, by the Senate of Texas, That the Investigating Committee heretofore appointed under and by virtue of Senate Resolutions Nos. 12 and 90 be, and they are hereby directed to make a searching investigation of the way and manner in which the lands of the State are now being sold and file a final report of their findings with the Governor and the Attorney General, and that said report be presented to the Senate at the next session of the Legislature.

The resolution was read.

On motion of Senator Small, the resolution was tabled subject to call.

#### House Bill No. 167 on Second Reading

The President laid before the Senate, on its second reading, and passage to third reading:

H. B. No. 167, A bill to be entitled "An Act to amend Chapter 57 of the Acts of the Forty-first Legislature, Regular Session, by amending Section 13 thereof so as to authorize and empower the Commissioners' Court of Montgomery County, Texas, to issue warrants or other evidence of indebtedness against the road and bridge fund of said County for the purpose of acquiring land for right of way purposes for State or Federal designated highways and public roads; limiting and restricting such power; authorizing and regulating the issuance of interest-bearing time warrants of said County for the purpose of taking up and paying off of any such road and bridge warrants;

repealing all laws in conflict; and declaring an emergency."

On motion of Senator Burns, and by unanimous consent, Senate Rules Nos. 31, 31a and 48 were suspended severally, to permit consideration of the bill at this time.

The bill was read second time.

Senator Burns offered the following amendment to the bill:

Amend H. B. No. 167 by striking out Section 2 and amend caption to conform.

The amendment was adopted.

The bill was passed to third reading.

#### House Bill No. 167 on Third Reading

Senator Burns moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 167 be placed on its third reading and final passage.

The motion prevailed by the following vote:

#### Yeas—28

Aikin	Newton
Beck	Oneal
Brownlee	Pace
Burns	Rawlings
Collie	Roberts
Cotten	Shivers
Davis	Spears
Head	Stone
Hill	Sulak
Holbrook	Van Zandt
Isbell	Weinert
Lemens	Westerfeld
Neal	Winfield
Nelson	Woodruff

#### Absent—Excused

Moore	Small
Redditt	

The President then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

#### Yeas—27

Aikin	Burns
Beck	Collie
Brownlee	Davis

Head	Roberts
Hill	Shivers
Holbrook	Spears
Isbell	Stone
Lemens	Sulak
Neal	Van Zandt
Nelson	Weinert
Newton	Westerfeld
Oneal	Winfield
Pace	Woodruff
Rawlings	

#### Absent—Excused

Cotten	Redditt
Moore	Small

#### Senate Concurrent Resolution No. 23

Senator Sulak offered the following resolution:

Whereas, There are a number of common and independent school districts in the State entitled to have tuition paid for pupils in their districts who attended high school in other districts because the grades to which such pupils belonged were not taught in the home district which did not receive such tuition for the year 1934-35 because of the fact that applications were received too late for consideration, or after the funds had been apportioned, thus working a hardship on both sending and receiving districts; and

Whereas, These claims are just claims against the sending districts and the State of Texas according to the High School Tuition Law in effect at that time; and

Whereas, Tuition claims were paid in 1934-35 on the 71 per cent basis; therefore, be it

Resolved by the Senate of Texas, the House of Representatives concurring, That the Joint Legislative Committee having authority to adjust such claims for 1935-37, also be empowered to consider said unpaid claims and to order said claims paid on the 71 per cent basis out of funds set aside for supplementing the Equalization Fund for 1935-37.

The resolution was read, and, by unanimous consent, it was considered at this time, and was adopted.

#### Senate Concurrent Resolution No. 24

Senator Small offered the following resolution:

Be it resolved by the Senate, the House of Representatives concurring,

That Joint Rule No. 9 is hereby suspended pending the final passage of House Bill No. 146.

REDDITT.

The resolution was read, and, by unanimous consent, it was considered at this time, and was adopted.

**Report of Conference Committee on House Bill No. 74**

Senator Sulak submitted the following report of the conference committee on House Bill No. 74:

Committee Room,  
Austin, Texas,  
October 26, 1937.

Hon. R. W. Calvert, Speaker of the House of Representatives; Hon. Walter F. Woodul, President of the Senate.

Sirs: We, your Conference Committee, appointed to adjust the differences between the two houses on House Bill No. 74, beg to recommend that said bill be passed in the form and with the text as submitted herewith.

Respectfully submitted,

BAKER,  
BROWN,  
KING,  
KNETSCH,  
HANKAMER,

On the part of the House;

SULAK,  
NEWTON,  
ONEAL,  
WINFIELD,  
HEAD,

On the part of the Senate.

H. B. No. 74, A bill to be entitled "An Act validating, ratifying, and confirming the acts of the County Boards of Trustees in creating, defining, redefining, or attaching additional territory to common consolidated school districts, common school districts, independent school districts, and rural high school districts, since June 1, 1936, in counties having a population of not more than 11,400, according to the last preceding Federal Census; providing exceptions; and declaring an emergency."

Be it enacted by the Legislature of the State of Texas:

Section 1. That all common school

districts, common consolidated school districts, independent school districts, and rural school districts heretofore created, defined, or redefined since June 1, 1936 by the County Board of Trustees of the County wherein such school districts are located including those independent school districts to which territory detached from common school districts has been annexed by the County Board of Trustees of the County in which said school districts are located, are hereby in all things validated, regardless of the fact that they were not properly created, defined, or redefined, or enlarged by such annexation in the first instance, and regardless of the fact that there exists no record of their prior creation, and the acts of such County Boards in creating, defining, redefining, or attaching additional territory to such districts are hereby in all things validated, in counties having a population not exceeding 11,400, according to the last preceding United States census.

Section 2. The fact that by inadvertence or oversight there might be some irregularity in the creation or redefining of such district shall in no wise affect its status as a school district. Said school district shall be known and designated by the name given to it by the County Board of Trustees and shall be governed by the law governing the administration of school districts of the same name.

Section 2-a. This law shall not apply to any district, the organization or creation of which is now involved in litigation, or concerning which the validity of the organization or creation, or consolidation, or annexation of territory in or to such district is attacked in any suit or litigation, filed within forty-five (45) days after the effective date of this Act. Provided further, that this Act shall not apply to any district which may have been established, and which has later returned to its original status and has been so recognized by the proper authorities; provided, however, if and when any such litigation shall be finally terminated, in a manner favorable to such district, then this Act shall apply thereto.

Section 3. The fact that, there is a great confusion throughout the State as to the validity of the creation of a great number of school



districts, creates an emergency and an imperative public necessity demanding that the constitutional rule requiring that bills be read on three several days be suspended, and said rule is hereby suspended, and this Act shall become effective from and after its passage, and it is so enacted.

The report was adopted by the following vote:

## Yeas—28

Aikin	Newton
Beck	Oneal
Brownlee	Pace
Burns	Rawlings
Collie	Roberts
Cotten	Shivers
Davis	Spears
Head	Stone
Hill	Sulak
Holbrook	Van Zandt
Isbell	Weinert
Lemens	Westerfeld
Neal	Winfield
Nelson	Woodruff

## Absent—Excused

Moore	Small
Redditt	

## House Concurrent Resolution No. 54

The President laid before the Senate:

H. C. R. No. 54, Authorizing State Parks Board to convey certain tract of land to City of Nocona, Texas.

The resolution was read, and, by unanimous consent, it was considered at this time, and was adopted.

## At Ease

Senator Stone moved that the Senate stand at ease to 9:15 o'clock p. m., today, and the motion was lost.

On motion of Senator Woodruff, the Senate, at 8:55 o'clock p. m., stood at ease subject to the call of the President.

The President called the Senate to order at 9:05 o'clock p. m.

## House Concurrent Resolution No. 65

The President laid before the Senate:

H. C. R. No. 65, Suspending rules to permit consideration of House Bill No. 124.

The resolution was read, and was adopted by the following vote:

## Yeas—25

Aikin	Pace
Beck	Rawlings
Brownlee	Roberts
Collie	Shivers
Davis	Spears
Head	Stone
Hill	Sulak
Holbrook	Van Zandt
Isbell	Weinert
Lemens	Westerfeld
Neal	Winfield
Nelson	Woodruff
Newton	

## Absent—Excused

Burns	Redditt
Cotten	Small
Moore	

## Absent

Oneal

## House Bill No. 124 on Passage to Third Reading

Senator Westerfeld called from the President's table on its passage to third reading (the bill having been read second time on October 21, 1937):

H. B. No. 124, A bill to be entitled "An Act to amend Article 4180 of the Revised Civil Statutes of the State of Texas, 1925, Acts 1937, Forty-fifth Legislature, Senate Bill No. 84, Section 1, relating to the investment of surplus funds of ward or wards in the hands of guardians or the lending of same, designating certain investments that may be made, so as to provide for the purchase by a guardian of bonds of any county, or any district or subdivision in Texas, or of any incorporated city or town in Texas, and declaring an emergency."

The President laid the bill before the Senate.

Senator Westerfeld offered the following amendment to the bill:

Amend House Bill No. 124, in Section 1, by striking out the following words: "of the State of Texas, of any county or any district, or subdivision in Texas, or of any incorporated city or town in Texas" and insert in lieu thereof the following: "in tax supported bonds of the State of Texas, in

tax supported bonds of any county, district, political subdivision, incorporated city or town in Texas, provided, that the bonds of counties, districts, subdivisions, cities and towns may be purchased subject only to the following restrictions: the net funded debt of said issuing unit shall not exceed ten (10%) per cent of the assessed value of taxable property therein; 'net funded debt' meaning the total funded debt less sinking funds on hand and further, in the case of cities, less that part of the debt incurred for acquisition or improvement of revenue producing utilities, the revenues of which are not pledged to support other obligations; provided, however, the above restrictions shall not apply to bonds issued for road purposes in this State under authority of Article III, Section 52, of the Constitution of Texas, which bonds are supported by a tax unlimited as to rate or amount."

The amendment was adopted.

The bill was then passed to third reading.

#### House Bill No. 124 on Third Reading

Senator Westerfeld moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 124 be placed on its third reading and final passage.

The motion prevailed by the following vote:

#### Yeas—26

Aikin	Oneal
Beck	Pace
Brownlee	Rawlings
Collie	Roberts
Davis	Shivers
Head	Spears
Hill	Stone
Holbrook	Sulak
Isbell	Van Zandt
Lemens	Weinert
Neal	Westerfeld
Nelson	Winfield
Newton	Woodruff

#### Absent—Excused

Burns	Redditt
Cotten	Small
Moore	

The President then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

#### Yeas—23

Aikin	Newton
Beck	Rawlings
Brownlee	Roberts
Collie	Shivers
Davis	Spears
Head	Stone
Hill	Sulak
Holbrook	Van Zandt
Isbell	Westerfeld
Lemens	Winfield
Neal	Woodruff
Nelson	

#### Nays—2

Pace	Weinert
------	---------

#### Absent

Oneal

#### Absent—Excused

Burns	Redditt
Cotten	Small
Moore	

#### Senate Resolution No. 28

Senator Woodruff offered the following resolution:

Be it Resolved, by the Senate of Texas, That the following named employees be retained for the number of days, and at the per diem salary, specified in each case to perform such duties as may be required of them in connection with the business of the State, viz:

The Secretary of the Senate shall be retained during the interval between adjournment of this session and convening of the next session of the Legislature for which services he shall receive the same per diem he now receives, and in addition thereto, he shall be furnished postage, telegraph, telephone, express and all other expenses incident to the office. He shall be allowed the services of one secretary who shall receive the same per diem she now receives.

The secretary to the Lieutenant-Governor shall be retained for the interval from adjournment of the Second Called Session of the Forty-fifth Legislature until the reconvening of the next ensuing session of the

Legislature of Texas, who shall, in addition to serving in the office of Lieutenant-Governor, be also subject to assignment by the Lieutenant-Governor upon request therefor to the Senate Committee authorized under Senate Resolution No. 12 or to any Senator for such additional services as the Lieutenant-Governor may require, and shall receive for such services the sum of \$5.00 per day.

One warrant clerk shall be retained for one (1) day at \$5.00 per day, one page to the Lieutenant-Governor two (2) days at \$2.50 per day. The Journal Clerk shall be retained sixty (60) days at \$7.50 per day, the assistant Journal Clerk to be designated by the Lieutenant-Governor shall be retained sixty (60) days at \$5.00 per day, the Sergeant-at-Arms shall be retained fifteen (15) days at \$7.50 per day with one assistant fifteen (15) days and two assistants for eight (8) days at \$5.00 per day each, one head porter five (5) days at \$4.00 per day, one porter ten days (10) at \$2.50 per day, with five extra porters, five (5) days at \$2.50 per day each.

The Calendar Clerk shall be retained three (3) days at \$7.50 per day; the Engrossing and Enrolling Clerk three (3) days at \$7.50 per day; the private secretary of each Senator five (5) days at \$5.00 per day each, to perform such duties as shall be required of them; the Post-mistress one (1) day at \$5.00 per day, after which the Secretary of the Senate shall attend to all matters relative to postal receipts and transmissals of Senators; one P. B. X. operator five (5) days at \$5.00 per day; the Librarian of the Senate two (2) days at \$5.00 per day to supervise the collection of all books, documents, and materials belonging to the Library; the mailing clerk and two assistants for two (2) days at \$5.00 per day each, to perform such services as the Secretary of the Senate shall direct; the secretary of the Senate Committee on Contingent Expense twenty (20) days at \$5.00 per day, and the Chairman of the Senate Committee on Contingent Expense is hereby authorized and directed to cause the Senate Chamber to be placed in order and an inventory made of all furniture and fixtures in the Senate Chamber and in the private offices of the Members, as well

as of the supplies and equipment on hand in the room of the Sergeant-at-Arms, and close his books for the Second Called Session of the Forty-fifth Legislature, and he shall be entitled to receive his actual and necessary expenses incurred while in the performance of such services. He shall also examine all records and accounts payable out of the Contingent Expense Fund as shall be necessary properly to approve all claims and accounts against the Senate, and no claim or account shall be paid without his consent and approval.

The Lieutenant-Governor shall appoint a Custodian of the Senate and an Assistant Custodian to perform such services as the Lieutenant-Governor or the Secretary of the Senate may direct and the Custodian to receive therefor the sum of One Hundred Twenty-five (\$125.00) Dollars per month, and the Assistant to receive Eighty (\$80.00) Dollars per month.

The Lieutenant-Governor is authorized to employ a head porter to serve as he shall direct in keeping the Senate Chamber in order during the interval between this session and the next ensuing session of the Legislature, for which services said porter shall receive ninety dollars (\$90.00) per month. The special porter serving as mail clerk shall be retained three (3) days at \$3.50 per day, for such services as shall be directed by the Secretary of the Senate. Be it further

Resolved, That the Chairman of the Senate Committee on Finance be allowed one secretary for ten (10) days at not to exceed \$5.00 per day to perform such services as said chairman shall direct. Be it further

Resolved, That two hundred fifty (250) volumes of the Senate Journals of the Second Called Session of the Forty-fifth Legislature, when completed, shall be bound in full law sheep and delivered to the Secretary of State, and one volume thus bound shall be forwarded by the Secretary of State to each member of the Senate and House of Representatives, to the Lieutenant Governor and Secretary of the Senate, and twenty-five (25) such copies shall be delivered to the Secretary of the Senate, and the remainder shall be retained by the Secretary of State. The printing of such Senate Journal shall be done in accordance with the provisions of this resolution

under supervision of the Chairman of the Committee on Contingent Expense; provided further, that it shall be the duty of said chairman to refuse to receive or to receipt for said Journals until corrected and published in accordance with the pre-existing law and as finally approved by the Chairman of Committee on Contingent Expense of the Senate. When the accounts have been certified to by the Board of Control, and approved by the Chairman of the Senate Committee on Contingent Expense, said accounts shall be paid out of the Contingent Expense Fund of the Second Called Session of the Forty-fifth Legislature. Be it

Resolved further, That all salaries herein authorized to be incurred and paid for shall be paid out of the per diem and contingent expense fund of the Second Called Session of the Forty-fifth Legislature. All salaries and compensations herein provided shall be paid out of the per diem and contingent expense fund upon warrants signed by the Lieutenant-Governor and the Secretary of the Senate. All warrants for the payment of materials, supplies and expenses of the Senate and committees authorized by the Senate shall be paid upon warrants signed by the President of the Senate and the Chairman of the Senate Committee on Contingent Expense. Be it further

Resolved, That the Joint Legislative Committee authorized and appointed under the terms and provisions of House Bill No. 600, enacted at the Regular Session of the Forty-fifth Legislature, 1937, be authorized to employ two stenographers and to continue the duties authorized and imposed in said Act until completed and its report prepared to be filed at the next succeeding session of this Legislature, or as soon thereafter as practicable, and that the actual and necessary expenses, not to exceed seven hundred fifty dollars (\$750.00), of the members of said committee while engaged in the performance of such duties to be paid out of the mileage and per diem and the Contingent Expense Fund of the Second Called Session of the Forty-fifth Legislature upon vouchers signed by the President of the Senate and approved by the Chairman of the Senate Committee on Contingent Expense, with a supported sworn account of such expenses.

On motion of Senator Woodruff, the resolution was tabled subject to call.

#### Messages From the House

A Clerk from the House was recognized to present the following messages:

Hall of the House of Representatives,  
Austin, Texas,  
October 26, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following resolutions:

S. C. R. No. 22, Suspending all necessary rules for the purpose of taking up and considering until final disposition H. B. No. 81.

H. C. R. No. 45, Granting permission to Mrs. J. Albert Ackermann to sue the State of Texas and the Highway Department.

S. C. R. No. 21, Suspending Joint Rules for the consideration of S. B. No. 28 until final disposition.

S. C. R. No. 24, Suspending Joint Rules for the consideration until final disposition of H. B. No. 146.

The House has concurred in Senate amendments to House Bill No. 70 by a vote of 134 yeas, 1 no.

The House has concurred in Senate amendments to House Bill No. 73 by a vote of 133 yeas, 1 no.

The House has adopted the Conference Committee Report on House Bill No. 74 by a vote of 121 yeas, 1 no.

Respectfully submitted,

LOUISE SNOW PHINNEY,  
Chief Clerk, House of Representatives.

#### House Bill No. 81 on Second Reading

The President laid before the Senate, on its second reading and passage to third reading:

H. B. No. 81, A bill to be entitled "An Act amending Article 4782, Revised Civil Statutes, 1925; repealing all laws or parts of laws in conflict herewith; providing that provisions hereof shall not affect Acts, Forty-first Legislature. First Called Ses-

sion, 1929, Chapter 40, as amended by Acts, Forty-first Legislature, 1929, Second Called Session, Chapter 60, and declaring an emergency."

On motion of Senator Head, Senate Rules Nos. 31, 31a and 48 were suspended severally, to permit consideration of the bill at this time.

The bill was read second time.

Senator Head offered the following (committee) amendments to the bill:

(1)

Amend H. B. No. 81 by adding in Section 2, page 3, between the figures "60" in line 2 and the word "shall" in line 3, the following:

"or Senate Bill No. 81, Acts of the Regular Session of the Forty-fifth Legislature."

SULAK,  
BROWNLEE.

(2)

Amend H. B. No. 81, page 2, by adding a new paragraph at the end of Section 4 of said bill to read as follows:

"It is expressly provided that nothing herein is to authorize the Board of Insurance Commissioners to issue a permit to do business in Texas to any foreign mutual assessment life insurance company that is not now doing business here. It is the intention of this Act to regulate and levy a tax on those companies that are now doing business here."

(3)

Amend the caption to conform to the body of the bill.

The amendments were adopted severally.

The bill was passed to third reading.

#### House Bill No. 81 on Third Reading

Senator Head moved that the constitutional rule requiring bills to be read on three several days be suspended and that House Bill No. 81 be placed on its third reading and final passage.

The motion prevailed by the following vote:

#### Yeas—26

Aikin	Oneal
Beck	Pace
Brownlee	Rawlings
Collie	Roberts
Davis	Shivers
Head	Spears
Hill	Stone
Holbrook	Sulak
Isbell	Van Zandt
Lemens	Weinert
Neal	Westerfeld
Nelson	Winfield
Newton	Woodruff

#### Absent—Excused

Burns	Redditt
Cotten	Small
Moore	

The President then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

#### Yeas—25

Aikin	Pace
Beck	Rawlings
Brownlee	Roberts
Collie	Shivers
Davis	Spears
Head	Stone
Hill	Sulak
Holbrook	Van Zandt
Isbell	Weinert
Lemens	Westerfeld
Neal	Winfield
Nelson	Woodruff
Newton	

#### Absent—Excused

Burns	Oneal
Cotten	Redditt
Moore	Small

#### House Concurrent Resolution No. 62

The President laid before the Senate:

H. C. R. No. 62, Suspending rules to permit consideration of House Bill No. 147.

The resolution was read.

Senator Woodruff offered the following amendment to the resolution:

Amend resolution by adding:

"Be it further resolved by the Senate, the House of Representatives concurring, That the joint rules, in-

cluding Rule 9, be suspended pending final consideration of House Bill No. 119."

The amendment was adopted.

The resolution, as amended, was adopted.

#### Senate Resolution No. 28

Senator Woodruff called up Senate Resolution No. 28, providing for post-session clerical work, etc., from the President's table, for further consideration.

Senator Holbrook offered the following amendment to the resolution:

Amend Senate Resolution No. 28 by making the time of service of the Secretary of the Senate 30 days after adjournment instead of until the next session of the Legislature.

Senator Rawlings moved to table the amendment.

Yeas and nays were demanded, and the motion to table prevailed by the following vote:

#### Yeas—19

Aikin	Newton
Beck	Pace
Brownlee	Rawlings
Cotten	Roberts
Davis	Shivers
Hill	Sulak
Isbell	Weinert
Lemens	Westerfeld
Moore	Winfield
Neal	

#### Nays—5

Collie	Stone
Holbrook	Woodruff
Nelson	

#### Absent

Head	Van Zandt
Spears	

#### Absent—Excused

Burns	Redditt
Oneal	Small

Senator Davis offered the following amendment to the resolution:

Amend Senate Resolution No. 28 by striking out all allowance for extra time for secretaries to the Senators.

Senator Lemens offered the following substitute for the amendment:

Amend pending resolution so as to provide two days for secretaries to each Senator.

Senator Woodruff moved to table the substitute.

Yeas and nays were demanded, and the motion to table was lost by the following vote:

#### Yeas—8

Aikin	Newton
Brownlee	Sulak
Cotten	Van Zandt
Hill	Woodruff

#### Nays—17

Beck	Pace
Collie	Rawlings
Davis	Roberts
Head	Shivers
Holbrook	Stone
Isbell	Weinert
Lemens	Westerfeld
Neal	Winfield
Nelson	

#### Absent

#### Spears

#### Absent—Excused

Burns	Redditt
Moore	Small
Oneal	

Question recurring on the substitute for the amendment, it was adopted.

The amendment, as substituted, was adopted.

Question then recurring on the resolution as amended, yeas and nays were demanded.

The resolution, as amended, was adopted by the following vote:

#### Yeas—23

Brownlee	Pace
Cotten	Rawlings
Davis	Roberts
Head	Shivers
Hill	Spears
Holbrook	Sulak
Isbell	Van Zandt
Lemens	Weinert
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff
Newton	

## Nays—4

Aikin  
BeckCollie  
Stone

## Absent—Excused

Burns  
OnealRedditt  
Small**Senate Bill No. 28 on Second Reading**

The President laid before the Senate, on its second reading and passage to engrossment:

S. B. No. 28, A bill to be entitled "An Act to amend paragraph (4) of Article 2350, Title 44, of the Revised Civil Statutes of the State of Texas, 1925, as added by the Acts of 1937, Forty-fifth Legislature, House Bill No. 765, and declaring an emergency."

On motion of Senator Winfield, and by unanimous consent, Senate Rules Nos. 31, 31a, and 48 were suspended, severally, to permit consideration of the bill at this time.

The bill was read second time.

Senator Van Zandt offered the following amendment to the bill:

Amend Senate Bill No. 28 by striking out all of Section 2 and amending caption to conform.

The amendment was adopted.

Senator Isbell offered the following amendment to the bill:

Amend Senate Bill No. 28 by adding the following: "This Act shall not apply to counties having a population of 7,680 or less, according to the last Federal Census."

The amendment was adopted.

On motion of Senator Winfield, it was ordered that the caption be amended to conform to changes in the body of the bill.

The bill was passed to third reading.

**Senate Bill No. 28 on Third Reading**

Senator Winfield moved that the constitutional rule requiring bills to be read on three several days be suspended and that Senate Bill No. 28 be placed on its third reading and final passage.

The motion prevailed by the following vote:

## Yeas—26

Aikin  
Beck  
Brownlee  
Collie  
Davis  
Head  
Hill  
Holbrook  
Isbell  
Lemens  
Neal  
Nelson  
NewtonOneal  
Pace  
Rawlings  
Roberts  
Shivers  
Spears  
Stone  
Sulak  
Van Zandt  
Weinert  
Westerfeld  
Winfield  
Woodruff

## Absent—Excused

Burns  
Cotten  
MooreRedditt  
Small

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time, and was passed by the following vote:

## Yeas—26

Aikin  
Beck  
Brownlee  
Collie  
Davis  
Head  
Hill  
Holbrook  
Isbell  
Lemens  
Neal  
Nelson  
NewtonOneal  
Pace  
Rawlings  
Roberts  
Shivers  
Spears  
Stone  
Sulak  
Van Zandt  
Weinert  
Westerfeld  
Winfield  
Woodruff

## Absent—Excused

Burns  
Cotten  
MooreRedditt  
Small**Senate Resolution No. 29**

Senator Westerfeld offered the following resolution:

Be it resolved by the Senate of the State of Texas, That forty copies of Ray's Advance Session Laws be purchased, to be delivered as soon as all bills passed by this session has been signed, to be paid for at the usual rate of \$1.00 per copy, out of the contingent fund of the Senate, one copy to be furnished to each officer and member of the Senate.

The resolution was read and was adopted.

#### Senate Resolution No. 30

Senator Woodruff offered the following resolution:

Whereas, The State of Texas is a heavy purchaser and user of cement and annually expends thousands of dollars therefor; and

Whereas, It has come to the attention of the Senate of Texas that the various manufacturers of cement in Texas who submit bids for the sale of the State's requirements of this product do not bid competitively, but practice a method that apparently amounts to collusion in violation of the Anti-Trust Laws of the State; now, therefore be it

Resolved, That the Senate does hereby call this matter to the attention of the Senate Committee authorized under Senate Resolution No. 12 and request it to go into the matter thoroughly; Be it further

Resolved, That the actual and necessary expenses of such committee for such purpose and for any further purpose for which same has been created be paid out of the Contingent Expense Fund of the Senate, Forty-fifth Legislature, Second Called Session, upon vouchers signed by the Lieutenant-Governor and approved by the Chairman of the Senate Committee on Contingent Expenses.

The resolution was read and was adopted.

#### House Concurrent Resolution No. 45

The President laid before the Senate:

H. C. R. No. 45, Authorizing Mrs. J. Albert Ackermann to sue the State.

On motion of Senator Spears, and by unanimous consent, the Senate rule requiring concurrent resolutions to be referred to a committee was suspended, to permit consideration of the resolution at this time.

The resolution was adopted.

#### House Bill No. 146 on Second Reading

The President laid before the Senate, on its second reading and passage to third reading:

H. B. No. 146, A bill to be entitled "An Act authorizing the Director of the Cigarette Tax Division of the State Comptroller's Department to designate a personal representative as supervisor of the printing and manufacturing of cigarette tax stamps, etc., and declaring an emergency."

On motion of Senator Brownlee, and by unanimous consent, Senate Rules Nos. 31, 31a and 48 were suspended severally, to permit consideration of the bill at this time.

The bill was read second time and was passed to third reading.

#### House Bill No. 146 on Third Reading

Senator Brownlee moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 146 be placed on its third reading and final passage.

The motion prevailed by the following vote:

#### Yeas—26

Aikin	Oneal
Beck	Pace
Brownlee	Rawlings
Collie	Roberts
Davis	Shivers
Head	Spears
Hill	Stone
Holbrook	Sulak
Isbell	Van Zandt
Lemens	Weinert
Neal	Westerfeld
Nelson	Winfield
Newton	Woodruff

#### Absent—Excused

Burns	Redditt
Cotten	Small
Moore	

The President laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

#### Yeas—26

Aikin	Hill
Beck	Holbrook
Brownlee	Isbell
Collie	Lemens
Davis	Neal
Head	Nelson



Newton	Stone
Oneal	Sulak
Pace	Van Zandt
Rawlings	Weinert
Roberts	Westerfeld
Shivers	Winfield
Spears	Woodruff

Absent—Excused

Burns	Redditt
Cotten	Small
Moore	

#### Message From the House

A Clerk from the House was recognized to present the following message:

Hall of the House of Representatives,  
Austin, Texas,  
October 26, 1937.

Hon. Walter F. Woodul, President  
of the Senate.

Sir: I am directed by the House to inform the Senate that the House has refused to concur in Senate Amendments to H. B. No. 81 and requests the Senate for the appointment of a Conference Committee to adjust the differences between the two Houses. The following are appointed as conferees on the part of the House:

Messrs. Harbin, England, Hyder, Woods and Mayes.

The House has concurred in Senate Amendments to House Bill No. 167 by a vote of 131 yeas, 0 noes.

The House has concurred in Senate Amendments to House Concurrent Resolution No. 62 by a viva voce vote.

Respectfully submitted,

LOUISE SNOW PHINNEY,  
Chief Clerk House of Representatives.

#### Conference Committee on House Bill No. 81

Senator Head moved that the request of the House for a conference committee to adjust the differences on House Bill No. 81 be granted.

The motion prevailed.

The President announced the appointment of the following conferees on the bill on the part of the Senate:

Senators Head, Aikin, Stone, Spears and Roberts.

#### Senate Resolution No. 31

Senator Burns offered the following resolution:

Whereas, On Sunday, October 3, 1937, J. M. Thomas, a guard at the Eastham State Farm, a unit of the Texas Prison System, successfully and bravely defended the armory at that camp from desperate and incorrigible convicts who had broken confinement, taken pistols from two other guards in the building and advanced on said armory; and

Whereas, These desperate and incorrigible convicts, had they been successful in their attempt to rout the said J. M. Thomas from the armory, would then have taken possession of the store of arms and ammunition at that camp, and would undoubtedly have liberated and armed the other felons confined at that camp, and unlimited slaying and pillaging would most certainly have resulted; now, therefore, be it

Resolved by the Senate of Texas, That the State of Texas do commend the said J. M. Thomas for his colorful exhibition of gallantry, daring and true, red-blooded manliness in the performance of his duty and the prevention of this catastrophe; and, be it further

Resolved, That the courageous act of the said J. M. Thomas shall become a legend and merge and live with the history of the Texas Prison System, and that other men now connected with the system, as well as all those who may come later, shall look upon this act as the standard marking the supreme achievement in valor and the rare human quality of placing oneself in danger to protect the lives and property of others; and be it further

Resolved, That the Secretary of the Senate be instructed to send a copy of this resolution to Guard J. M. Thomas and another copy to Joseph Wearden, Chairman of the Texas Prison Board, and another to O. S. J. Ellingson, General Manager of the Texas Prison System.

The resolution was read and was adopted.

#### At Ease

On motion of Senator Beck, the Senate, at 10:20 o'clock p. m., stood at ease subject to the call of the President.

The President called the Senate to order at 10:50 o'clock p. m.

**Relative to Report of Conferees on House Bill No. 23**

Senator Moore announced that the following report on House Bill No. 23 was agreed to by a majority of the conferees on the part of the House and by all the conferees on the part of the Senate, and that the House conferees later refused to sign the report:

Committee Room,  
Austin, Texas, October 26, 1937.

Hon. Walter F. Woodul, President of the Senate; Hon. R. W. Calvert, Speaker of the House of Representatives.

Sirs: We, your Free Conference Committee, appointed to adjust the differences between the House and Senate on House Bill No. 23, have had the same under consideration and recommend that the bill be passed in the form and text as submitted herewith.

SMALL,  
BURNS,  
COTTEN,  
MOORE,  
REDDITT,

On the part of the Senate.

H. B. No. 23, A bill to be entitled

"An Act amending Section 40A of Article 7047, Revised Civil Statutes of Texas, 1925, as amended by Acts, 1931, Forty-second Legislature, Regular Session, page 355, Chapter 212, Section 1, as amended by Acts 1936, Forty-fourth Legislature, Third Called Session, page 2040, Chapter 495, Article 4, Section 6; amending Section 2, Subdivision 1, Article 7057a of the Revised Civil Statutes of Texas, 1925, same being Section 2, Subsection 1, Chapter 162, Acts of the Forty-third Legislature, Regular Session, 1933, as amended by Acts of the First Called Session of the Forty-third Legislature, 1933, Chapter 12, Section 1, as amended by Acts of the Third Called Session of the Forty-fourth Legislature, 1936, Chapter 495, Article 4, Section 4; amending Section 3, Chapter 73, Acts of the Regular Session of the Forty-second Legislature, as amended by Acts of the Third Called Session of the Forty-

fourth Legislature, Chapter 495, Article 4, Section 8; amending Article 7070, Revised Civil Statutes of Texas, 1925, as amended by Acts of the Third Called Session of the Forty-fourth Legislature, 1936, Article 4, Section 1, House Bill No. 8; amending Section 3, Chapter 241, Acts of the Regular Session, Forty-fourth Legislature, page 575, as amended by Chapter 495, House Bill No. 8, Acts of the Third Called Session of the Forty-fourth Legislature, and as amended by Chapter 6, Senate Bill No. 247, Acts of the Regular Session of the Forty-fifth Legislature; amending Article 7060, Revised Civil Statutes of 1925, as amended by Chapter 34, Acts of the Fifth Called Session of the Forty-first Legislature, as amended by Article IV, Section 3, Chapter 495, Acts of the Third Called Session of the Forty-fourth Legislature; stating the intention of the Legislature with reference to providing revenue of the Teacher's Retirement Fund; providing that the State shall have a prior lien for delinquent taxes, fines, penalties, and interest due under the provisions of this Act; preserving taxes, penalties, and interest accruing from any amended and/or repealed provision set out in the Act before the effective date thereof; providing that if any portion of this Act is held invalid or unconstitutional such decision shall not affect the remaining portions of this Act; repealing all laws in conflict herewith; amending Section 13 of Senate Bill No. 5, Third Called Session, Forty-fourth Legislature, as amended by House Bill No. 586, Regular Session, Forty-fifth Legislature; amending Section 9, of Senate Bill No. 5, Third Called Session, Forty-fourth Legislature, as amended by House Bill 586, Regular Session, Forty-fifth Legislature, State of Texas; amending Article 7084, Revised Civil Statutes, 1925, as amended by Acts 1930, Forty-first Legislature, Fifth Called Session, page 220, Chapter 68, Section 2, and as amended by the Acts of 1931, Forty-second Legislature, page 441, Chapter 265, Section 1; amending Section 4, Article III, Chapter 495, Acts Third Called Session, Forty-fourth Legislature; amending Section 41A, Article 7047, as amended

by Acts Forty-second Legislature, page 355, Chapter 212, Section 1; amending Article IV of House Bill No. 8, Acts of the Forty-fourth Legislature, Third Called Session, Chapter 495, page 2040; imposing a tax upon each person, association or corporation engaged in the business of a security or commodity broker; defining certain terms and prescribing the manner for the payment and collection of such tax; levying a tax upon all foreign assessment life insurance companies and prescribing the manner of the collection of such tax; making appropriation out of the General Revenue to the Old Age Assistance Fund; providing for the disposition of all special fees and taxes levied and collected for enforcement and administrative purposes of the laws of this State; providing for the allocation of funds collected by reason of the imposition of certain taxes; prescribing a lien on certain property to secure the payment of certain taxes, fines, penalties and interest, and prescribing the method of foreclosing such liens; providing for the collection of taxes accruing to the State under laws re-enacted or repealed, and for the prosecution of offenses committed under pre-existing law; and declaring an emergency."

Be it enacted by the Legislature of the State of Texas:

Section 1. That Section 40A of Article 7047, Revised Civil Statutes of Texas, 1925, as amended by Acts, 1931, Forty-second Legislature, Regular Session, page 355, Chapter 212, Section 1, as amended by Acts, 1936, Forty-fourth Legislature, Third Called Session, page 2040, Chapter 495, Article 4, Section 6, be and the same is hereby amended so as to read as follows:

"40A. Sulphur Producers: Each person who owns, controls, manages, leases or operates any sulphur mine, or mines, wells, or shafts, or who produces sulphur by any method, system, or manner within this State shall make quarterly on the first day of January, April, July and October of each year a report to the Comptroller sworn to by such person before an officer authorized to administer oaths in this State, or if such person be other than an individual, sworn to by its president, secretary,

or other duly authorized officer, on such forms as the Comptroller shall prescribe, showing the total amount of sulphur produced within this State by said person during the quarter next preceding; and at the time of making said report shall pay to the Treasurer of this State an occupation tax for the quarter ending on said date an amount equal to One Dollar Ten Cents (\$1.10) per long ton, or fraction thereof, of all sulphur produced by said person within the State of Texas during said quarter.

The revenue derived from the tax imposed by this Article shall be allocated as follows:

1. For the fiscal year ending August 31, 1938
  - (a) One-half ( $\frac{1}{2}$ ) to the Available School Fund, and
  - (b) One-half ( $\frac{1}{2}$ ) to the General Revenue Fund.
2. From and after August 31, 1938
  - (a) One-fourth ( $\frac{1}{4}$ ) to the Available School Fund, and
  - (b) Three-fourths ( $\frac{3}{4}$ ) to the General Revenue Fund.

Sec. 2. That Section 2, Subdivision 1, of Article 7057a of the Revised Civil Statutes of Texas, 1925, same being Section 2, Subsection 1, Chapter 162, Acts of the Forty-third Legislature, Regular Session, 1933, as amended by Acts of the First Called Session of the Forty-third Legislature, 1933, Chapter 12, Section 1, as amended by Acts of the Third Called Session of the Forty-fourth Legislature, 1936, Chapter 495, Article 4, Section 4, be amended so as to read hereafter as follows:

"Section 2. (1) On all persons who produce oil in this State there is hereby levied an occupation tax of three (3%) per cent of the market value thereof, provided however that such tax shall in no event be less than two and three-fourths ( $2\frac{3}{4}$ ) cents per barrel of forty-two (42) standard gallons. The market value of oil, as that term is used herein, shall be the actual market value thereof, plus any bonus or premiums, or any other things of value paid therefor or which such oil will reasonably bring, if produced in accordance with the laws, rules, and regulations of the State of Texas.

"(2) The tax hereby levied shall be a liability of the producer of oil and it shall be the duty of such pro-

ducer to keep accurate records of all oil produced, making monthly reports under oath as hereinafter provided.

"(3) The purchaser of oil shall pay the tax on all oil purchased and deduct the tax so paid from payment due producer or other interest holder, making such payments so deducted to the Comptroller of Public Accounts by legal tender or cashier's check payable to the State Treasurer. Provided that if oil produced is not sold during the month in which produced, the said producer shall pay the tax at the same rate and in the same manner as if said oil were sold.

"(4) The tax levied herein shall be paid monthly on the twenty-fifth day of each month on all oil produced during the month next preceding by the purchaser or the producer as the case may be, but in no event shall a producer be relieved of responsibility for the tax until the same shall have been paid; and provided, in event the amount of the tax herein levied shall be withheld by a purchaser from payments due a producer and said purchaser fails to make payment of the tax to the State as provided herein, the producer may bring legal action against such purchaser to recover the amount of tax so withheld, together with penalties and interest which may have accrued by failure to make payments and shall be entitled to reasonable attorney's fees and the Court costs incurred by such legal action.

"(5) Provided, that unless such payment of tax on all oil produced during any month or fractional part thereof shall be made on or before the twenty-fifth day of the month immediately following, such payment shall become delinquent and a penalty of ten (10) per cent of the amount of the tax shall be added; such tax and penalty shall bear interest at the rate of six (6) per cent per annum from date due until date paid.

"(6) The tax herein levied shall be borne ratably by all interested parties, including royalty interests; and producers and/or purchasers of oil are hereby authorized and required to withhold from any payment due interested parties the proportionate tax due and remit the same to the Comptroller.

"(7) On affidavit by the Comptroller or his authorized agent, that the producer has failed to file crude oil reports as required by law, the purchasing and/or pipe line company shall not receive nor take any oil from such producer's lease or leases and until notified by the Comptroller that the law has been complied with.

"(8) Whenever any lease or leases, producing oil, change legal control, it shall be the duty of the transferor of said lease or leases to note on his last report that said lease or leases have been sold or transferred, showing the effective date of said change and the name and address of the individual, firm, association, joint-stock company, syndicate, co-partnership, corporation, agency, receiver, or trustee who will operate said lease and be responsible for the filing of reports provided for in this Act. Said transferor shall remain liable for the payment of the tax levied by this Act, as well as the transferee, until the provisions of this subsection are complied with by said transferor.

"(9) That all occupation taxes, penalties, and interest accruing to the State of Texas by virtue of any of the re-enacted or repealed provisions as set out in this Act before the effective date of this Act shall be and remain valid and binding obligations to the State of Texas for all taxes, penalties, and interest accruing under the provisions of prior or pre-existing laws, and all such taxes, penalties, and interest now or hereafter becoming delinquent to the State of Texas before the effective date of this Act are hereby expressly preserved and declared to be legal and valid obligations to the State.

"The passage of this Act shall not affect offenses committed, or prosecutions begun, under any pre-existing law, but any such offenses or prosecutions may be conducted under the law as it existed at the time of the commission of the offense."

"(10) If any producer or purchaser of crude oil fails or refuses to pay any tax, penalties, or interest within the time and manner provided by this Act and it becomes necessary to bring suit or to intervene in any manner for the establishment or collection of said claim in any judicial proceedings, any report filed in the office of the Comptroller by such producer or purchaser or representative of said producer or purchaser or a

certified copy thereof certified to by the Comptroller of Public Accounts showing the amount of crude oil produced or purchased on which such tax, penalties or interest have not been paid, or any audit made by the Comptroller or his representatives from the books of said producer or purchaser when filed and sworn to by such representative as being made from the records of said producer or purchaser such report or audit shall be admissible in evidence in such proceedings and shall be prima facie evidence of the contents thereof; provided, however, that the incorrectness of said report or audit may be shown.

In the event that the Attorney General shall file suit or claim for taxes, provided for in the foregoing Section, and attach or file as an exhibit any report or audit of said producer or purchaser, and an affidavit made by the Comptroller or his representative that the taxes shown to be due by said report or audit are past due and unpaid; that all payments and credits have been allowed, then, unless the party resisting the same shall file an answer in the same form and manner as required by Article 3736, Revised Civil Statutes of Texas of 1925, as amended by Chapter 239, Acts of the Regular Session of the Forty-second Legislature, said audit or report shall be taken as prima facie evidence thereof, and the proceedings of said Article are hereby made applicable to suits to collect taxes hereunder.

For the fiscal year ending August 31, 1938, the net revenue derived from the tax imposed in this article, including penalties, fines and forfeitures, shall be allocated as follows, to-wit:

(a) One-half ( $\frac{1}{2}$ ) to the Available School Fund.

(b) One-half ( $\frac{1}{2}$ ) to the Texas Old Age Assistance Fund until a sum equal to the amount due on warrants authorized by House Bill Number 37, Chapter 496, Acts of the Third Called Session of the Forty-fourth Legislature and outstanding on October 1, 1937, shall accrue to said Texas Old Age Assistance Fund.

(c) From and after the time the revenue imposed by this Article and allocated to the Old Age Assistance Fund shall be sufficient to liquidate warrants outstanding on October 1, 1937, and authorized by House Bill

Number 37, Chapter 496, Acts of the Third Called Session of the Forty-fourth Legislature, one-half ( $\frac{1}{2}$ ) of all such revenue shall be placed to the credit of the General Revenue Fund and no part thereof shall be placed to the credit of any other fund.

From and after August 31, 1938, the revenue derived from the tax imposed by this Article, including penalties, fines and forfeitures, shall be allocated as follows, to-wit:

(a) One-fourth ( $\frac{1}{4}$ ) to the Available School Fund, and

(b) Three-fourths ( $\frac{3}{4}$ ) to the General Revenue Fund.

Sec. 3. That Section 3, Chapter 73, Acts of the Regular Session of the Forty-second Legislature, as amended by Acts of the Third Called Session of the Forty-fourth Legislature, Chapter 495, Article 4, Section 8, be and the same is hereby amended so as to read as follows:

Section 3a. A tax shall be paid by each such producer, or interest holder, including royalty holder, on the amount of gas produced and saved within this State, and on gas imported into this State upon the first sale thereof in intrastate commerce upon the following basis:

"A tax equivalent to three and one-fourth ( $3\frac{1}{4}$ ) per cent of the market value of the total amount of gas produced and saved within this State, or sold if imported into this State, at the market value thereof as and when produced. The market value of gas, as that term is used herein, shall be the actual market value thereof, plus any bonus or premiums, or other things of value paid therefor or which such gas will reasonably bring, if produced in accordance with the laws, rules, and regulations of the State of Texas. Provided, however, that if any gas is imported into this State from another State, in which latter State a severance, occupation, or excise tax is imposed thereon, the person importing such gas shall not be required to pay another tax thereon under the provisions of this Act.

"For the purposes of this Act, the term 'cubic feet of gas' is meant volume of gas expressed in cubic feet and computed at a base pressure of four (4) ounces per square inch above the average barometric pressure of fourteen and four-tenths (14.4) pounds per square inch. A standard

base and flowing temperature of sixty (60) degrees Fahrenheit; correction to be made for pressure according to Boyle's law, and for Specific Gravity according to tests made by the Balance Method.

"The tax hereby levied shall be a liability of the producer and purchaser of gas and it shall be the duty of such producer to keep accurate records of all gas produced, making monthly reports under oath as herein-after provided.

"The purchaser of gas shall pay the tax on all gas purchased and deduct tax so paid from payment due the producer or interest holder, including royalty holder, making such payments so deducted to the Comptroller of Public Accounts by legal tender or cashier's check payable to the State Treasury.

"The tax herein levied shall be paid monthly on the twenty-fifth day of each month on all gas produced during the month next preceding by the purchaser or the producer, as the case may be, but in no event shall a producer be relieved of responsibility for the tax until same shall have been paid; and provided, in event the amount of the tax herein levied shall be withheld by a purchaser from the payments due a producer and said purchaser fails to make payment of the tax to the State as provided herein, the producer may bring legal action against such purchaser to recover the amount of tax so withheld, together with penalties and interest which may have accrued by failure to make payments and shall be entitled to reasonable attorney's fees and court costs incurred by such legal action.

"That all occupation taxes, penalties, and interest accruing to the State of Texas by virtue of any of the re-enacted or repealed provisions as set out in this Act before the effective date of this Act shall be and remain valid and binding obligations to the State of Texas for all taxes, penalties, and interest accruing under the provisions of prior or pre-existing laws, and all such taxes, penalties, and interest now or hereafter becoming delinquent to the State of Texas before the effective date of this Act are hereby expressly preserved and declared to be legal and valid obligations to the State.

"The passage of this Act shall not affect offenses committed, or prosecu-

tions begun, under any pre-existing law, but any such prosecutions may be conducted under the law as it existed at the time of the commission of the offense."

(b) (1) For the purpose of enabling the Comptroller or his authorized representative to determine the tax liability of a producer or purchaser or any other person dealing in, transporting, producing, or manufacturing any derivative from natural gas or its products or to determine whether a tax liability has been incurred, they shall have the right to inspect any premises where natural gas or any of its derivatives or products are produced, made, prepared, stored, transported, sold, or offered for sale or exchange, examine all of the records required by the Comptroller to be kept, or any other pertinent records which may be kept incident to the conduct of the business of said producer, purchaser, transporter, or any other person dealing in or possessing natural gas or its derivatives or products. The said authorized official shall also have the right as an incident to determining said tax liability, or whether the tax liability has been incurred, to examine and gauge the contents of all storage tanks, containers, pipe lines, and other property or equipment. For the foregoing purposes said authorized officers shall also have the right to remain upon said premises for such length of time as will be necessary to fully determine said tax liability, or whether a tax liability has been incurred.

"(2) If any purchaser or producer fails or refuses to pay any tax, penalty, or interest within the time and manner provided by this Act and it becomes necessary to bring suit or to intervene in any manner for the establishment or collection of said claim, in any judicial proceedings, any report filed in the office of the Comptroller by such purchaser, or producer, or their representative, or a certified copy thereof, certified to by the Comptroller or Chief Clerk showing the amount of gas produced and saved, or sold in this State by such producer, purchaser, or importer, on which such tax, penalty, and interest have not been paid, or any audit made by the Comptroller or his representative, from the books of said producer, purchaser, or importer, when signed and sworn to by such

representative as being made from the records of said producer, purchaser, or importer, such report or audit shall be admissible in evidence in such proceedings, and shall be prima facie evidence of the contents thereof; provided, however, that the incorrectness of said report or audit may be shown.

"(3) In the event the Attorney General shall file suit or claim for taxes and shall attach and file as an exhibit any report or audit of said purchaser, producer, or importer, and an affidavit made by the Comptroller or his representative that the taxes shown to be due by said report or audit are past due and unpaid, and all the payments and credits have been allowed, then, unless the party resisting the same shall file an answer in the same form and manner as required by Article 3736, Revised Civil Statutes of Texas, 1925, as amended by Chapter 239, Acts of the Regular Session of the Forty-Second Legislature, said audit or report shall be taken as prima facie evidence thereof, and proceedings of said Article are hereby made applicable to suits to collect taxes hereunder.

"(4) On affidavit by the Comptroller that the producer has failed and refused to file natural gas reports as required by law, the purchasing and/or pipe line company shall not receive nor take any natural gas from such producer's lease or leases unless and until notified by the Comptroller that said law has been complied with.

"Whenever any lease or leases producing natural gas change legal control, it shall be the duty of the transferor of said lease or leases to note on his last report that said lease or leases have been sold or transferred, showing the effective date of said change and the name and address of the individual, firm, association, joint-stock company, syndicate, copartnership, corporation, agency, receiver, or trustee in bankruptcy who will operate said lease and be responsible for the filing of reports provided for in this Act. Said transferor shall remain liable for the payment of the tax levied by this Act, as well as the transferee, until the provisions of this subsection are complied with by said transferor."

The revenue derived from the tax herein imposed shall be allocated as follows:

(a) One-fourth ( $\frac{1}{4}$ ) to the Available School Fund, and

(b) Three-fourths ( $\frac{3}{4}$ ) to the General Revenue Fund.

Sec. 4. That Article 7070, Revised Civil Statutes of Texas, 1925, as amended by Acts of the Third Called Session of the Forty-fourth Legislature, 1936, Article 4, Section 1, House Bill No. 8, be and the same is hereby amended so as to read as follows:

"Article 7070. (1) Each individual, company, corporation, or association owning, operating, managing, or controlling any telephone line or lines or any telephones within this State, and charging for the use of the same, shall make quarterly, on the first days of January, April, July, and October of each year, a report to the Comptroller, under oath of the individual or of the president, treasurer, or superintendent of such company, corporation or association, showing the gross amount received from all business within this State during the preceding quarter in the payment of charges for the use of its line or lines, telephone and telephones, and from the lease or use of any wires or equipment within this State during said quarter. Said individuals, companies, corporations, and associations, at the time of making said reports, shall pay to the State Treasurer, and there is hereby levied upon said individuals, companies, corporations, and associations, an occupation tax for the quarter beginning on said date, equal to one and one-half per cent ( $1\frac{1}{2}\%$ ) of the gross receipts, as shown by said report, received from doing business outside of incorporated cities and towns and within incorporated cities and towns of less than two thousand, five hundred (2,500) inhabitants, according to the last preceding Federal Census; an occupation tax for the quarter beginning on said date, equal to one and three-fourths per cent ( $1\frac{3}{4}\%$ ) of said gross receipts, as shown by said report, received from doing business within incorporated cities and towns of more than two thousand five hundred (2,500) inhabitants and not more than ten thousand (10,000) inhabitants, according to the last preceding Federal Census;

an occupation tax for the quarter beginning on said date, equal to two and one-fourth per cent (2½%) of said gross receipts, as shown by said report, received from doing business within incorporated cities and towns of more than ten thousand (10,000) inhabitants, according to the last preceding Federal Census.

"(2) No city or other political subdivision of this State, by virtue of its taxing power, police power, or otherwise shall impose an occupation tax or charge of any sort, upon any person, corporation or association required to pay an occupation tax under this Article; provided, that nothing in this Article shall be construed to prohibit the collection of ad valorem taxes as provided by law or any tax now imposed by franchise, and provided further that this Article shall not affect any contracts now in existence or hereafter made between a city and the holder of a franchise."

"The revenue derived from the tax imposed in this Article shall be allocated as follows:

(a) One fourth (¼) to the Available School Fund,

(b) One-fourth (¼) to the General Revenue Fund, and

(c) One-half (½) to the Blind Assistance Fund, to be used by the State Division of Public Welfare under and by virtue of the terms and provisions of House Bill No. 7, Acts of the Forty-fifth Legislature, Regular Session, 1937.

Sec. 5. That Section 3, Chapter 241, Acts of the Regular Session of the Forty-fourth Legislature, page 575, as amended by Chapter 495, House Bill No. 8, Acts of the Third Called Session of the Forty-fourth Legislature, and as amended by Chapter 6, Senate Bill No. 247, Acts of the Regular Session, Forty-fifth Legislature, be and the same is hereby amended so as to hereafter read as follows:

"Sec. 3. A 'Cigarette Tax Stamp Board' composed of the Board of Control of this State, designated hereafter as the 'Board,' is hereby created and the said Board shall be and is hereby required to design and have printed or manufactured new cigarette tax stamps of such size and denominations and in such quantities as may be determined by said Board. The stamps shall be so manufactured as to render them easy to be securely attached to each individual package of cigarettes; provided that a different

and separate serial number or combination letter and number may be assigned to and printed on the margin of each sheet of stamps, or other methods of identification be adopted as the Board may decide. The printing or manufacturing of the stamps shall be awarded by competitive bid and the contract shall be awarded to the person submitting the lowest and best bid that will afford the greatest and best protection to the State in the enforcement of the provisions of this Act.

"The Board, acting through the Treasurer, shall, upon receipt of the stamps hereinabove authorized to be printed or manufactured, designate the date of issue of the new design of stamps by issuing a proclamation as hereinafter provided. Provided that the stamps shall be affixed by the distributor on each individual package of cigarettes that will be handled, sold, distributed, or used; that said stamps shall be supplied by said Treasurer to all distributors holding a permit in the State at a discount of four per cent (4%) from the face value; provided that if any distributor fails or refuses to comply with any provision of this cigarette tax law or violates the same such distributor shall be required to pay the full face value for stamps purchased during the period of such offense and the Treasurer shall, upon receipt of an affidavit from the Comptroller, setting forth such violation, refuse to supply stamps at the discount provided until such offending distributor has paid any unauthorized discounts received by him and has otherwise purged himself of all such violations; provided further, that every distributor shall cause to be affixed to every individual package of cigarettes on which a tax is due, stamps of an amount equaling the tax due thereon, before any such distributor sells, offers for sale, or consumes, or otherwise distributes or transports the same.

"For the fiscal year ending August 31, 1938, the revenue derived from the taxes imposed in this Act shall be allocated as follows:

(a) One-third (⅓) to the Available School Fund; and

(b) Two-thirds (⅔) to the Texas Old Age Assistance Fund.

"From and after August 31, 1938, said revenues shall be allocated as follows:



(a) One-fourth ( $\frac{1}{4}$ ) to the Available School Fund;

(b) One-twelfth ( $\frac{1}{12}$ ) to the Teachers' Retirement Fund;

(c) Two-thirds ( $\frac{2}{3}$ ) to the Texas Old Age Assistance Fund.

"The Board is hereby authorized to change the design of the stamps as often as it may deem such change necessary to the best enforcement of the provisions of this Act, and the Treasurer is hereby required to redeem at face value any unused cigarette tax stamps lawfully issued, prior to such change in the design, which are in the possession of any bona fide owner, by exchanging at face value cigarette tax stamps of the new design. Provided that whenever a change is made in the design of the stamps every person holding stamps of the old design shall be required to send them to the Treasurer for exchange at face value for stamps of the new design. Such exchange shall be made within sixty (60) days after the date of issue of the new design of stamps and it shall be unlawful for any person to have in his possession any stamps of an old design after sixty (60) days from the date of issue of any new design; provided it shall be unlawful for any person to sell, offer for sale, or possess for the purpose of sale, cigarettes to which stamps of the old design are affixed after sixty (60) days from the date of issue of a new design; provided, further, that after sixty (60) days from the date of issue of any new design of stamps the old design shall be void and cigarettes with stamps of the old design affixed to the individual package shall, for the purpose of the enforcement of the provisions of this Act, be considered as cigarettes without stamps affixed thereto. It shall be the duty of the Treasurer upon receipt of any new design of stamps authorized to be printed by the Board to designate the date of issue of such new design by the issuance of a proclamation and the date of such proclamation shall be the date of issue of the new design of stamps.

"Any person who shall have in his possession any cigarette tax stamps of an old design after sixty (60) days from the date of issue of a new design of stamps shall be guilty of a felony and shall be punished as set out in Section 26 of this Act.

"Provided that any cigarette tax stamps may be exchanged only when proof satisfactory to said Treasurer is furnished that any stamps offered to said Treasurer in exchange were properly purchased and paid for by the person offering to exchange such stamps; provided, further, that stamps which are effaced or mutilated in any manner may be refused for acceptance in exchange by said Treasurer.

"The Treasurer shall keep a record of all stamps sold by him or under his direction, of all stamps exchanged by him and of all refunds made on stamps purchased.

"Orders for cigarette tax stamps shall be sent direct to the Treasurer and it shall be the duty of the Treasurer to invoice the stamps ordered to the purchaser upon a form invoice to be prescribed by the Treasurer, which invoice shall be issued in triplicate and numbered consecutively. The invoice shall show the date of sale, the name and address of purchaser, the number of stamps and their serial numbers, the denomination and value of stamps so purchased. The invoice shall be signed by the Treasurer and the original sent with stamps to the purchaser; the duplicate of the invoice shall be sent to the Comptroller and the triplicate kept by the Treasurer; provided further, that the purchaser of said stamps shall hold the said invoice for a period of two (2) years for inspection at all times by the Comptroller and the Attorney General. No stamp affixed to a package of cigarettes shall be cancelled by any letter, numeral or any other mark of identification or otherwise mutilated in any manner that will prevent or hinder the Comptroller in making an examination as to the genuineness of said stamp.

"Stamps in unbroken sheets of one hundred (100) stamps may be exchanged, with the Treasurer only, for stamps of a different denomination. Provided further, that the Treasurer shall be authorized to make refunds on unused stamps in unbroken sheets of not less than one hundred (100) stamps each to the person who purchased said stamps only when proof satisfactory to said Treasurer is furnished that any stamps upon which a refund is requested were properly purchased from said Treasurer and paid for by the person requesting

such refund. Such refund shall be made from revenue derived from this Act before such revenue is allocated as herein provided."

Sec. 41 That Article 7060, Revised Civil Statutes of 1925, as amended by Chapter 34, Acts of the Fifth Called Session of the Forty-first Legislature, as amended by Article IV, Section 3, Chapter 495, Acts of the Third Called Session of the Forty-fourth Legislature, be and the same is hereby amended so as to read as follows:

"Article 7060. Each individual, company, corporation, or association, owning, operating, or managing, or controlling any gas, electric light, electric power, or water works, or water and light plant, located within any incorporated town or city in this State, and used for local sale and distribution in said town or city, and charging for such gas, electric lights, electric power, or water, shall make quarterly, on the first days of January, April, July, and October of each year, a report to the Comptroller under oath of the individual or of the president, treasurer, or superintendent of such company, corporation, or association showing the gross amount received from such business done in each such incorporated city or town within this State in the payment of charges for such gas, electric lights, electric power, or water for the quarter next preceding. Said individual, company, corporation, or association, at the time of making said report for any such incorporated town or city of two thousand, five hundred (2,500) inhabitants and less than ten thousand (10,000) inhabitants, according to the last Federal Census next preceding the filing of said report, shall pay to the Treasurer of this State an occupation tax for the quarter beginning on said date equal to eight-tenths of one per cent ( $\frac{8}{10}$  of 1%) of said gross receipts, as shown by said report; and for any incorporated town or city of ten thousand (10,000) inhabitants or more, according to the last Federal Census next preceding the filing of said report, the said individual, company, corporation, or association, at the time of making said report, shall pay to the Treasurer of this State an occupation tax for the quarter beginning on said date an amount equal to one and one-half per cent ( $1\frac{1}{2}\%$ ) of said gross receipts, as shown by said report.

Nothing herein shall apply to any such gas, electric light, power, or water works, or water and light plant within this State owned and operated by any city or town, nor to any county or water improvement or conservation district. Nothing herein shall be construed to require payment of the tax on gross receipts herein levied more than once on the same commodity, and where the commodity is produced by one individual, company, corporation, or association, and distributed by another, the tax shall be paid by the distributor alone.

"No city or other political subdivision of this State, by virtue of its taxing power, police power, or otherwise shall impose an occupation tax or charge of any sort, upon any person, corporation, or association required to pay an occupation tax under this Article, provided, that nothing in this Article shall be construed to prohibit the collection of ad valorem taxes as provided by law or any tax imposed by franchise, and provided further that this Article shall not affect any contracts now in existence or hereafter made between a city and the holder of a franchise."

"The net revenue derived from the tax imposed by the Article shall be allocated as follows:

For the fiscal year ending August 31, 1938,

(a) One-fourth ( $\frac{1}{4}$ ) to the Available School Fund, and

(b) Three-fourths ( $\frac{3}{4}$ ) to the Teachers' Retirement Fund until the sum of five hundred thousand dollars (\$500,000.00) shall accrue to said fund, and after the accrual of said sum to said fund, three-fourths of said net revenue shall be placed in General Revenue Fund.

From and after August 31, 1938,

(a) One-fourth ( $\frac{1}{4}$ ) to the Available School Fund, and

(b) Three-fourths ( $\frac{3}{4}$ ) to the General Revenue Fund.

Section 41. That Article 7084 of the Revised Civil Statutes of 1925, as amended by the Acts of 1930, Forty-first Legislature, Fifth Called Session, page 220, Chapter 68, Section 2, as amended by the Acts of 1931, Forty-second Legislature, page 441, Chapter 265, Section 1, be amended so as to hereafter read as follows:

Article 7084. Amount of Tax—(A) Except as herein provided, every domestic and foreign corporation heretofore or hereafter chartered or au-

thorized to do business in Texas, shall, on or before May 1 of each year, pay in advance to the Secretary of State a franchise tax for the year following, based upon that proportion of the outstanding capital stock, surplus and undivided profits, plus the amount of outstanding bonds, notes and debentures, other than those maturing in less than a year from date of issue, as the gross receipts from its business done in Texas bears to the total gross receipts of the corporation from its entire business, which tax shall be computed at the following rates for each one thousand (\$1,000.00) dollars or fractional part thereof: One dollar (\$1.00) to one million dollars (\$1,000,000), ninety cents (.90c); in excess of one million dollars (\$1,000,000), forty-five cents (.45c); provided, that such tax shall not be less than twenty dollars (\$20.00) in the case of any corporation, including those without capital stock. Where a foreign corporation applying for a permit has theretofore done no business in Texas, such tax shall not be payable until the end of one year from the date of such permit, at which time the tax shall be computed according to first year's business; and, at the same time, such corporation shall also pay its tax in advance, based upon the first year's business, for the period from the end of the first year to and including May 1 following; in all other cases, the tax shall be computed from the data contained in the reports required by Articles 7087 and 7089, capital stock as applied to corporations without capital stock shall mean the next assets.

(B) Corporations which are now required by law to pay annually a tax upon intangible assets, corporations, owning and operating street railways in or upon the public streets of any town or city, and corporations owning and operating electric inter-urban railways, shall be required to hereafter pay a franchise tax equal to one-fifth ( $\frac{1}{5}$ ) of the franchise tax herein imposed against all other corporations under Section (A) herein.

(C) Provided, however, that this Act shall not apply to corporations organized as terminal companies not organized for profit, and having no income from the business done by them.

(D) Except as provided in preceding clauses (B) and (C), all pub-

lic utility corporations, which shall include every such corporation engaged solely in the business of a public utility whose rates or services are regulated, or subject to regulation in whole or in part, by law, shall pay a franchise tax as provided in this Act, except the same shall be based on that proportion of the issued and outstanding capital stocks, surplus and undivided profits, which gross receipts of the business of said corporation done in this State bears to its total gross receipts, instead of the gross receipts; and in lieu of the rate hereinbefore prescribed said tax shall be computed as follows:

One dollar (\$1.00) to one million dollars (\$1,000,000) ninety-seven cents (.97c) for each one thousand dollars (\$1,000), or fractional part thereof;

Sixty-seven (.67c) for each one thousand dollars (\$1,000) or fractional part thereof in excess of one million dollars (\$1,000,000) and not exceeding ten million dollars (\$10,000,000);

And fifty-two cents (.52c) for each one thousand dollars (\$1,000) or fractional part thereof in excess of ten million dollars (\$10,000,000);

For the purpose of computing the tax of corporations issuing no par stock, such stock shall be taken and considered as being of the value actually received at the time of the issuance thereof; and foreign corporations issuing such stock shall furnish the Secretary of State with the same information now required of domestic corporations issuing such stock.

(E) Corporations engaged partly in the business of a public utility as defined in Clause (D) and partly in businesses embraced in clause (A) shall pay the franchise tax in the following manner; As to those businesses which come under clause (A) the tax shall be computed as provided in clause (A) on that proportion of the entire taxable capital under said clause (A) as the Texas gross receipts from such business or businesses bear to the entire Texas gross receipts of such corporation; and to those businesses which come under clause (D) the tax shall be computed as provided in clause (D) on that proportion of the entire taxable capital under said clause (D) as the Texas gross receipts from such business or businesses bear to the

entire Texas gross receipts of such corporation. The period for which such gross receipts are taken shall be the same period used in computing the proportion of Texas taxable capital under clauses (A) and (D).

(F) Corporations which are now required to pay a separate franchise tax for each purpose or business authorized by their charters shall hereafter pay only the tax provided hereunder for one purpose, and one-fourth ( $\frac{1}{4}$ ) of such amount for each additional purpose named in their charters.

Section 8. The net revenue derived from the franchise tax herein levied and collected shall be allocated as follows:

(A) Two-thirds ( $\frac{2}{3}$ ) of the net revenue shall be credited to the General Revenue Fund; and

(B) One-third ( $\frac{1}{3}$ ) of the net revenue collected during each fiscal year shall be allocated to the Dependent and Destitute Children's Fund until said fund is credited during each fiscal year with the sum of seven hundred fifty thousand dollars (\$750,000), after which the remaining sums, if any, out of said one-third ( $\frac{1}{3}$ ), shall be credited to the General Revenue Fund, it being the intention of the Legislature to allocate the sum of seven hundred fifty thousand (\$750,000) dollars out of said one-third ( $\frac{1}{3}$ ) to said fund for the care of Dependent and Destitute Children. All sums received in said fund shall be expended under and by virtue of House Bill No. 7, passed at the Regular Session of the Forty-fifth Legislature, creating the Division of Public Welfare, and said sums as are hereby appropriated are for the biennium ending August 31, 1939.

Section 9. That Section 4, Article III, Chapter 495, Acts of the Third Called Session of the Forty-fourth Legislature, be and the same is hereby amended so as to read hereafter as follows:

Sec. 4. Subsection (1). The following words, terms and phrases as used in this Act are hereby defined as follows:

(a) The term "owner" as used herein shall mean and include any person, individual, firm, company, co-partnership, corporation, trustee, agency or receiver who owns, controls or manages any "coin-operated machine" in this State and who leases

or rents such machines to operators as herein defined or who places such machines on location or in the possession of operators or who permits such machines to be operated, exhibited or displayed by operators in this State on a percentage basis or by any other arrangements.

(b) The term "operator" as used herein shall mean and include any person, individual, firm, company, co-partnership, corporation, trustee, agency or receiver, who exhibits, displays or permits to be exhibited or displayed, in his or its place of business or upon premises under his or its control, any "coin-operated machine" in this State.

(c) The term "coin-operated machine" as used herein shall mean and include every machine or device of any kind or character which is operated by or with coins, or metal slugs, tokens or checks, "merchandise or music coin-operated machines" and "skill or pleasure coin-operated machines" as those terms are hereinafter defined, shall be included in such terms.

(d) The term "merchandise or music coin-operated machine" as used herein shall mean and include every coin-operated machine of any kind or character, which dispenses or vends or which is used or operated for dispensing or vending merchandise, commodities, confections or music and which is operated by or with coins or metal slugs, tokens or checks. The following are expressly included within said term: candy machines, gum machines, sandwich machines, handkerchief machines, sanitary drinking cups, phonographs, pianos, graphophones, radios, and all other coin-operated machines which dispense or vend merchandise, commodities, confections or music.

(e) The term "skill or pleasure coin-operated machines" as used herein shall mean and include every coin-operated machine of any kind or character whatsoever, when such machine or machines, dispense or are used or are capable of being used or operated for amusement or pleasure or when such machines are operated for the purpose of dispensing or affording skill or pleasure, or for any other purpose other than the dispensing or vending of "merchandise or music" or "service" exclusively, as those terms are defined herein. The following are expressly included within said

term: marble machines, marble table machines, marble shooting machines, miniature race track machines, miniature football machines, miniature baseball machines, miniature golf machines, miniature bowling machines, and all other coin-operated machines which dispense or afford amusement, skill or pleasure. Provided that every machine or device of any kind or character which dispenses or vends merchandise, commodities or confections or plays music in connection with or in addition to such games or dispensing of amusement, skill or pleasure shall be considered as skill or pleasure machines and taxed at the higher rate fixed for such machines.

(f) The term "service coin-operated machines" shall mean and include pay toilets, pay telephones and all other machines or devices which dispense service only and not merchandise, music, skill or pleasure.

Subsection 2. Every "owner" as that term is herein defined shall pay and there is hereby levied on every "coin-operated machine" as defined in this Act, except such as are exempted herein, an annual occupation tax determined by the following schedule:

Series "1" (a) For each "merchandise or music coin-operated machine" as that term is hereinabove defined, a fee of Twenty Dollars (\$20.00), where the coin, fee or token used, or which may be used, in the operation thereof is one of the value in excess of Five (5) Cents or represents a value in excess of Five (5) Cents.

And (b) a fee of Seven Dollars and Fifty Cents (\$7.50), where the coin, fee or token used, or which may be used, in the operation thereof is one of the value in excess of One (1) Cent and not exceeding Five (5) Cents or represents a value in excess of One (1) Cent and not exceeding Five (5) Cents.

Series "2" (a) For each "skill or pleasure coin-operated machine" as that term is hereinabove defined, a fee of Sixty Dollars (\$60.00) where the coin, fee or token used, or which may be used, in the operation thereof is one of the value in excess of Five (5) Cents, or represents a value in excess of Five (5) Cents.

And (b) a fee of Forty-five Dollars (\$45.00) where the coin, fee or token used, or which may be used, in the operation thereof, is one of the

value in excess of One (1) Cent and not exceeding Five (5) Cents or represents a value in excess of One (1) Cent and not exceeding Five (5) Cents.

The taxes collected hereunder by virtue of this Section are hereby allocated as follows:

(1) One-fourth ( $\frac{1}{4}$ th) to the Available School Fund;

(2) Three-fourths ( $\frac{3}{4}$ ths) to the Old Age Assistance Fund.

Any provisions of any law in conflict with this allocation are hereby repealed to the extent of such conflict only.

Provided that nothing herein shall prevent the "operator" of such machines from paying the tax levied in this Act for the account of the "owner" but the payment of such tax by such "operator" or other person shall not relieve the owner from the responsibility of complying with all provisions of this Act including the keeping of the records required herein.

Subsection 3. Gas meters, pay telephones, and cigarette vending machines used for selling cigarettes only, which are now subject to an occupation or a gross receipts tax and "service coin-operated machines" as that term is defined, are expressly exempt from the tax levied herein and the other provisions of this Section.

Subsection 4. (a) Any person who shall invoke the power and remedies of injunction against the Comptroller of Public Accounts of the State of Texas to restrain or enjoin him from enforcement of the collection of the tax levied herein upon any grounds for which an injunction may be issued, shall file such proceedings in a court of competent jurisdiction in Travis County, Texas, and venue for such injunction is hereby declared to be in Travis County, Texas.

(b) Before any restraining order or injunction shall be granted against the Comptroller of Public Accounts of the State of Texas to restrain or enjoin the collection of the taxes levied herein the applicant therefor shall pay into the suspense account of the State Treasury all taxes, fees and assessments then due by him to the State and the application for restraining order or injunction shall reflect said fact of payment under oath of the applicant, his agent, or attorney. Provided that said ap-

plicant shall keep for the inspection at all times of the Attorney General and the Comptroller of Public Accounts of this State or their authorized representatives, a well bound book record, showing all coin-operated vending machines possessed and in operation during the pendency of such restraining order or injunction. Such book record shall show the make and kind of machine, the serial number, the date such machine was put in operation, and the location and serial number of each and every machine possessed or operated within the State. Provided further that said applicant shall make and file with the Comptroller of Public Accounts daily, excluding Sundays and legal holidays, a report on a form to be prescribed by said Comptroller, showing the ownership, make, and kind, and the serial number of every such machine operated by said applicant within this State. Said report shall also show the county, city and location within the city and county of each machine and the date such machine was placed in operation. In the event the location or ownership of any machine is changed, such information shall be included in said report. Said application and temporary injunction or restraining order shall be immediately dismissed and dissolved after hearing if said applicant fails, at any time before the case shall have been finally disposed of by the Court of last resort, to keep the records or make and file the reports required herein or to pay daily, excluding Sundays and legal holidays, into the suspense account of the Treasurer all taxes, fees and assessments due and thereafter becoming due, and such taxes shall be paid before such machines are operated, exhibited or displayed for operation within this State. The Comptroller of Public Accounts of this State, or his authorized representatives, may file in the Court granting such injunction an affidavit that said applicant has failed to comply with the provisions of this Act or has violated the same. Upon the filing of said affidavit, the Clerk of said Court shall issue notice to the said applicant to appear before such Court upon the date named therein, which shall be within five (5) days from service of such notice or as soon thereafter as the Court can hear the same, to show cause why such in-

junction should not be dismissed, which notice shall be served by the Sheriff of the county in which applicant resides or any other peace officer in this State. In the event the injunction is finally dissolved or dismissed all taxes, fees and assessments, paid into the suspense account of the Treasurer under the provisions of this Act shall be paid to the funds to which such taxes, fees and assessments are allocated. If the final judgment maintains the right of applicant to a permanent injunction to prevent the collection of such taxes the funds so deposited shall be refunded by the Treasurer to said applicant.

No person, firm, association or corporation required to pay the taxes levied herein to the State may receive or take advantage of any benefit of any restraining order or injunction against the Comptroller of Public Accounts, to restrain the collection of the tax levied herein except such person, firm, association or corporation as may have applied for said injunction. All other persons not securing an injunction shall pay to the Comptroller of Public Accounts all taxes, fees and assessments due by him under the provisions of this Act and said restraining order or injunction shall, in no way, interfere with or impair the power of the Comptroller of Public Accounts of this State to collect and enforce the payment of the taxes, fees and assessments involved in any litigation from taxpayers not parties to the restraining order or injunction. Provided, further, that no court shall entertain or hear any restraining order or injunction nor shall any restraining order or injunction be granted in behalf of any class or group unless and until each and every member of such class and/or group shall have been made a party to the cause of action, and shall have paid or deposited the taxes as hereinbefore provided.

Subsection 5. (a) For the purpose of enabling the Comptroller to determine the tax liability of the owners of coin-operated machines in this State, or whether a tax liability has incurred, every individual, company, person, firm, co-partnership, corporation, trustee, agency and/or receiver who owns, controls or permits to be operated or displayed any coin-operated machine in this State

shall have a separate and different serial number stamped by indenture into the stationary wood or metal of each machine in a manner that such serial number cannot be removed or transferred to another machine, and such serial number shall be shown on the application for a tax receipt and on the tax receipt issued. If any person shall indent the same serial number on more than one machine or shall exhibit, display or have in his possession within this State any coin-operated machine with the tax receipt of the Comptroller attached thereto and bearing the wrong serial number or a tax receipt bearing a different serial number from the serial number stamped by indenture on such machines, he shall be guilty of a misdemeanor and punished as set out in Subsection 13 of this Section. The possession, exhibition or display of more than one machine bearing the same serial number operated under the same management or ownership, shall be prima facie evidence that the owner of such machines indented the same serial number on each machine for the purpose of evading payment of the tax levied herein.

(b) Provided, further, the tax receipt issued by the Comptroller to evidence the payment of the tax levied herein shall be securely attached to the machine in a manner that will require continued application of steam and water to remove the same.

Subsection 6. (a) The Comptroller of Public Accounts shall have the authority to make and publish rules and regulations, not inconsistent with this Act or the other laws or the Constitution of this State or of the United States, for the enforcement of the provisions of this Act and the collection of revenues hereunder.

(b) If any owner as defined herein shall violate any provision of this Act or any rule and regulation promulgated by the Comptroller for the enforcement of this Act, the Comptroller shall have the power and is hereby authorized to refuse to issue tax receipts to such offender for a period of one (1) year.

It shall be unlawful for any operator as defined herein to operate, exhibit or display for operation any coin-operated machine without a tax

receipt affixed thereto, or to operate, exhibit, display or permit to be operated or displayed in his place of business or upon premises under his control any coin-operated machine without a serial number indented into the stationary metal or wood of such machine.

Subsection 7. Every coin-operated machine on which taxes are imposed by this Act, which shall be found in the possession, or custody or within the control of any person, firm, company, association or corporation, subject to this Act, for the purpose of being exhibited, displayed or being played by the public, without having affixed thereto, in the manner hereinafter required, the proper tax receipt issued by the Comptroller to evidence the payment of the tax hereby levied, may be seized by the Comptroller, with or without process, and the same shall be from the time of such seizure forfeited to the State of Texas, and a proceeding in the nature of a proceeding in rem shall be filed in a court of competent jurisdiction in the county of seizure to maintain such seizure and declare and perfect said forfeiture, as herein provided. All such coin-operated machines, so seized as aforesaid, remaining in the possession or custody of the Comptroller, Sheriff or other officer, for forfeiture or other disposition, as provided by law, shall be deemed to be, in the custody of law, an irrevocable.

The Comptroller, when making the seizure aforesaid, shall immediately make a written report thereof showing the name of the agent or representative making the seizure, the place and person where and from whom such property was seized and an inventory of same and appraisement thereof at the usual and ordinary retail price of the article seized, which report shall be prepared in duplicate, signed by the agent or representative so seizing, the original of which shall be given to the person from whom said property is taken, and a duplicate copy of which shall be filed in the office of the Comptroller and shall be open to public inspection.

The Attorney General, or the district or county attorney of the county of seizure, shall, at the request of the Comptroller, file in the county

and Court aforesaid forfeiture proceeding in the name of the State of Texas as plaintiff, and in the name of the owner, or person in possession, as defendant, if known, and if unknown, then in the name of said property seized and sought to be forfeited. Upon the filing of said proceeding, the Clerk of said Court shall issue notice to the owner or person in possession of such property to appear before such Court upon the date named therein, which shall not be less than two (2) days from service of such notice, to show cause why the forfeiture aforesaid should not be declared, which notice shall be served by the Sheriff of said county. In the event the defendant in said proceeding is a non-resident of the State or his residence is unknown, or in the event the name of such defendant is unknown, upon affidavit by the Comptroller to this effect, notice or process shall be served or published in the mode and manner provided by existing Statutes for service of citation upon non-residents or unknown defendants, provided, however, such proceeding may be heard at any time after ten (10) days from service of such process or the first publication of such notice. And in such cases, the Court shall appoint an attorney to represent such defendant, who shall have the rights, duties and compensation as provided by existing Statutes in cases of attorneys appointed to represent non-residents and unknown defendants.

In the event final judgment is rendered in the forfeiture proceeding aforesaid, maintaining the seizure, and declaring and perfecting the forfeiture of said seized property, the Court shall order and decree the sale thereof to the highest bidder by the sheriff at public auction in the county of seizure, after ten (10) days notice by advertisement in any legal publication of such county, and the proceeds of such sale, less expenses of seizure and court costs, shall be paid into the State Treasury, and shall be allocated as the Coin-operated Machine Tax is herein allocated. In the event the district or county attorneys file and prosecute such cases, a fee of fifteen dollars (\$15) shall be paid to such officers in addition to all other fees allowed by law under any maximum fee bill, which fee shall be

collected as court costs out of the proceeds of such sale.

In lieu of the forfeiture proceeding aforesaid, the Comptroller may elect to sell the coin-operated machine or machines seized by him in cases where such property appears by the report or receipt of the officer seizing same to be of the appraised value of five hundred (\$500) dollars, or less, by the following summary proceedings:

(a) The Comptroller shall publish a notice in some newspaper of the county where the seizure was made, describing the property seized and stating the time, place and cause of their seizure, and requiring any person claiming such property, or any interest therein or thereto, to appear and make such claim within fifteen (15) days from the date of such publication of such notice.

(b) Any person claiming such property so seized, or any interest therein or thereto, within the time specified in such notice, may file with the said Comptroller his claim, stating his interest in the property seized, and may execute a bond to the State of Texas in the penal sum of two hundred and fifty dollars (\$250), with sureties to be approved by said Comptroller, conditioned that, in case of the establishment of forfeiture of the articles so seized, the obligors shall pay all the costs and expenses of the proceeding to obtain such forfeiture; and upon the delivery of such bond to the Comptroller, he shall transmit the same with a certified copy of the report or receipt of the property seized, filed in his office, to the Attorney General or the county or district attorney of the county of seizure, and forfeiture proceedings shall be instituted and prosecuted thereon in the court of competent jurisdiction, as provided by law.

(c) If no claim is interposed and no bond is given within the time above specified, the Comptroller shall give ten (10) days notice of a sale of the property under seizure by publication in a newspaper of the county of seizure, and, at the time and place specified in such notice, shall sell the property so seized at public auction, and, after deducting expense of seizure, appraisal, custody and sale, he shall deposit the



proceeds thereof in the State Treasury, which shall be allocated to the funds to which the Coin-operated Machine Tax levied hereunder is apportioned.

(d) The seizure, forfeiture and sale of a coin-operated machine or machines under the terms and conditions hereinabove set out, and whether with or without court action, shall not be or constitute any defense or exemption to the person owning, operating or having control or possession of such property from criminal prosecution for any act or omission made or offense committed under this law or from liability to pay penalties provided by this law, with or without suit therefor.

(e) Jurisdiction is hereby conferred upon the Comptroller to waive any proceedings for the forfeiture of any of the property seized under the provisions of this Act, or any part thereof, provided that the offender shall first affix to the coin-operated machine or machines a proper tax receipt issued by the Comptroller and in addition thereto pay into the State Treasury through the Comptroller a sum equal to the amount of the tax required to be paid. The said Comptroller may make a compromise with any claimant before or after the claim is filed in court. A record of all such compromises and waivers of forfeiture shall be kept by the Comptroller and shall be open to public inspection.

Section 8. Provided that the Comptroller of Public Accounts, or his authorized representatives, shall be empowered and are hereby authorized to seal in a manner that will prevent further operation any coin-operated machine being operated, exhibited or displayed for operation in this State without a proper tax receipt affixed to said coin-operated machine, or any coin-operated machine being operated, exhibited, or displayed for operation in this State without a proper tax receipt affixed to said coin-operated machine, or any coin-operated machine being operated, exhibited, or displayed for operation in this State in violation of any provision of this Act or any reasonable rule and regulation promulgated by the said Comptroller for the enforcement of this Act. The said seal shall not be broken or removed by the Comptroller of his representa-

tives until the said tax has been paid and a tax receipt affixed to the coin-operated machine sealed or until the owner or operator of such coin-operated machine has otherwise purged himself of all such violations. The receipt wherever used in this Act shall be construed to mean the regular form tax receipt issued by the Comptroller and shall not be construed to mean temporary receipts issued by representatives of the Comptroller. Such temporary receipts shall not be affixed to coin-operated machines.

Subsection 9. Nothing herein shall be construed or have the effect to license, permit, authorize, or legalize any machine, device, table, or coin-operated machine, the keeping, exhibition, operation, display or maintenance of which is now illegal or in violation of any Article of the Penal Code of this State or of the Constitution of this State.

Subsection 10. Every "owner" of one or more coin-operated machines in this State shall keep for a period of two (2) years for the inspection at all times by the Attorney General and Comptroller of Public Accounts of this State, or their authorized representatives, a complete book record in a well bound book of each and every such machine purchased, received, possessed, handled, exhibited, or displayed in this State. Such record shall be kept at a permanent address which address shall be designated on the application for the tax receipt and shall include the following information: The make, kind and serial number of each such machine, the date acquired or received in Texas, the date placed in operation, the location or locations of each machine by serial number, including county, city, street and/or rural route number, the date of each and every change in location, the name and complete address of each and every operator together with the serial numbers of the machines operated by such operator, the full name and address of the owner, or if other than an individual the principal officers or members thereof and their addresses. Such information shall be shown completely and separately for each and every machine.

Subsection 11. All taxes and penalties as provided herein, due, or that might become due by any coin-operated machine owner in this State

shall be and become a preferred lien, first and prior to any and all other existing liens, contract or statutory, legal or equitable, and regardless of the time such lien originated upon all the property of such coin-operated machine owner devoted to or used in his coin-operated machine business which property shall include all coin-operated machines, tools, equipment, trucks, cars or motor vehicles or any other property or equipment devoted to such use, including cash and other tangible property which is used in carrying on such business. If any owner of coin-operated machines shall fail to pay any taxes and penalties due the State, the proper manner provided for such payment or fail to keep complete records as required herein, the Comptroller may assign auditors or other persons to ascertain the correct amount due, and if such taxes have not been properly paid the said coin-operated machine owner shall pay the reasonable expenses incurred in such investigation and audit as additional penalty.

Subsection 12. If any "owner" of a coin-operated machine within this State shall (a) deliver to or permit to be delivered to any "operator" a coin-operated machine without a valid tax receipt issued by the Comptroller of Public Accounts of this State being attached thereto, or (b) permit any coin-operated machine under his control to be operated, exhibited or displayed within this State without said tax receipt being attached thereto, or (c) if any person shall exhibit, display or have in his possession within this State any coin-operated machine without having annexed or attached thereto a tax receipt issued by the Comptroller of Public Accounts of this State showing the payment of the tax due thereon for the current year, or (d) shall exhibit, display or have in his possession in this State any coin-operated machine without a serial number stamped by indenture into the wood or metal of said coin-operated machine, or (e) if any person shall exhibit, display or possess any coin-operated machine in this State with a tax receipt attached thereto and bearing a different serial number from the serial number stamped by indenture on the machine to which said tax receipt is attached, or (f) if any person required to keep rec-

ords of coin-operated machines in this State shall falsify such records, or (g) shall fail to keep such records, or (h) shall refuse or fail to present such records for inspection upon the demand of the Comptroller of Public Accounts or his authorized representatives, or (i) if any person in this State shall use any artful device or deceptive practice to conceal any violation of this Act, or (j) mislead the Comptroller of Public Accounts or his authorized representatives in the enforcement of this Act, or (k) if any person in this State shall fail to comply with the provisions of this Act, or violate the same, or (l) if any person in this State shall fail to comply with the rules and regulations promulgated by the Comptroller of Public Accounts, or violate the same, he shall forfeit to the State as a penalty, the sum of not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500). Each day's violation shall constitute a separate offense and incur another penalty, which if not paid shall be recovered in a suit by the Attorney General of this State in a court of competent jurisdiction in Travis County, Texas, or any court having jurisdiction.

Subsection 13. (a) If any person shall exhibit, display or have in his possession within this State any coin-operated machine without having annexed or attached thereto a valid tax receipt issued by the Comptroller of Public Accounts of this State showing the payment of the tax due thereon for the current year, or (b) shall exhibit, display or have in his possession in this State any coin-operated machine without a serial number stamped by indenture into the wood or metal of said coin-operated machine, or (c) if any person shall exhibit, display or possess any coin-operated machine in this State with a tax receipt attached thereto bearing a different serial number from the serial number stamped by indenture on the machine to which said tax receipt is attached, or (d) if any person required to keep records of coin-operated machines in this State shall falsify such records, or (e) shall fail to keep such records, or (f) shall refuse or fail to present such records for inspection upon the demand of the Comptroller of Public Accounts or his authorized representatives, or

(g) if any persons shall break any seal affixed to a coin-operated machine by the Comptroller or his authorized representatives, or (h) shall exhibit or display any such coin-operated machine after said seal has been broken or shall permit to be exhibited or displayed in his place of business or upon any premises under his control any coin-operated machine after said seal has been broken, or (i) if any person in this State shall use any artful device or deceptive practice to conceal any violation of this Act, or (j) mislead the Comptroller of Public Accounts or his authorized representatives in the enforcement of this Act, or (k) if any person in this State shall fail to comply with the provisions of this Act, or violate the same, or (l) if any person in this State shall fail to comply with the rules and regulations promulgated by the Comptroller of Public Accounts, or violate the same, he shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than twenty-five dollars (\$25) nor more than two hundred dollars (\$200).

Subsection 14. The Comptroller of Public Accounts of this State is hereby authorized, ordered and directed to collect, and issue tax receipts for the payment of the tax levied herein and to employ all the agencies of the law available to him for the enforcement of the provisions of this Act. Provided further, that ten thousand dollars (\$10,000) of the funds derived under the provisions of this Section or act shall be set aside annually in a special fund subject to the use of the Comptroller and so much of said fund as may be necessary shall be expended for the printing of applications, tax receipts and for the administration and enforcement of the provisions of this Section or Act and so much of the proceeds of said fund shall be and the same is hereby appropriated for said purposes, same to be paid as needed.

Subsection 15. Except as herein provided in this Act, one-fourth ( $\frac{1}{4}$ ) of the net revenue derived from this Section shall be credited to the Available School Fund of the State of Texas and three-fourths ( $\frac{3}{4}$ ) of the net revenue derived from this section shall be credited to the Old Age Assistance Fund of this State. Provided that all counties and cities within

this State may levy an occupation tax on coin-operated machines in this State in an amount not to exceed one-half ( $\frac{1}{2}$ ) of the State tax levied herein.

Subsection 16. If any subsection, sentence, clause, phrase or word of this Section is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this section and the Legislature hereby declares that it would have passed each subsection, sentence, clause, phrase or word thereof irrespective of the validity of the other portions of the Section. Provided further that all taxes, penalties, and audit costs accruing to the State prior to this amendment are hereby expressly preserved and shall remain valid and binding obligations to the State of Texas; provided further that any criminal offenses committed or prosecutions begun under any law prior to this amendment shall not be affected by the said amendment but shall be conducted under the law as it existed at the time of the commission of the offense.

Section 10. (a) The term "Exchange" means any organization, association or group of persons, whether incorporated or unincorporated, which constitutes, maintains or provides a market place or facilities for bringing together purchasers and sellers of securities and commodities, or for otherwise performing with respect to securities and commodities the function commonly performed by a stock exchange or board of trade as those terms are generally understood, and includes the market place and the market facilities maintained by such exchange.

(b) The term "Facility," when used with respect to an exchange, includes its premises, tangible or intangible property whether on the premises or not. Any right to the use of such premises or property, or any service thereof for the purpose of effecting or reporting a transaction on an exchange (including, among other things, any system of communication to or from the exchange, by ticker or otherwise, maintained by or with the consent of the exchange), and any right of the exchange to the use of any property or service.

(c) The term "Member," when used with respect to exchange, means

any person who is permitted either to effect transaction on the exchange without the services of another person acting as broker or to make use of the facilities of an exchange for transactions thereon without payment of a commission or fee or with the payment of a commission or fee which is less than that charged the general public, and includes any firm transacting a business as broker or dealer of which a member is a partner, and any partner of such firm.

(d) The term "Broker" means any person engaged in the business of effecting transaction in securities and commodities for the account of others, but does not include a bank.

(e) The term "Dealer" means any person engaged in the business of buying and selling securities and commodities for his own account through a broker or otherwise, but does not include a bank, or any person in so far as he buys and sells securities and commodities for his own account, either individually or in some fiduciary capacity, but not as a part of his regular business.

(f) The term "Commodities" means cotton, grain, produce, metals and cotton seed oil.

(g) The term "Securities" means any note, stock treasury note, bond, debenture, certificate of interest or participation in any profit sharing agreement, or in any oil, gas or other mineral royalty lease, any collateral-trust certificate, pre-organization certificate or subscription, transferable sale, investment contract, vote-trust certificate, certificate of deposit for a security, or in general any instrument commonly known as a "security."

There is hereby levied and imposed upon each person, association or corporation doing business in the State of Texas as a security or commodity broker as that term is herein defined an occupation or excise tax based upon the gross amount of commissions received as a result of doing business in Texas by such person, association or corporation from the buying and selling of securities and commodities on any exchange either in this State or out of this State for the account of another at the rate of three-fourths ( $\frac{3}{4}$ ) of one (1) per cent of such gross amount of commissions received. Each person, association or corporation affected by the terms of this section shall

make the reports and pay the tax herein levied in accordance with the provisions of Article 7058, Revised Civil Statutes of Texas, 1925, and all amendments thereto.

(h) After one-fourth ( $\frac{1}{4}$ ) of the taxes collected hereunder have been placed to the credit of the Available School Fund, all other revenues derived herefrom shall be placed to the credit of the General Revenue Fund.

Section 10. (a). Amend Section 13 of Senate Bill No. 5, as passed by the Third Called Session of the Forty-fourth Legislature of the State of Texas, as amended by House Bill No. 586, passed by the Regular Session of the Forty-fifth Legislature of the State of Texas, so that the same being amended shall read as follows:

#### Unemployment Compensation Administration Fund

"Section 12. (a) Special Fund: There is hereby created in the State Treasury a special fund to be known as the Unemployment Compensation Administration Fund. All moneys which are deposited or paid into this fund are hereby appropriated and made available to the Commission. All moneys in this Fund shall be expended solely for the purpose of defraying the cost of the administration of this Act, and for no other purpose whatsoever. The Fund shall consist of all moneys appropriated by this State, and all moneys received from the United States of America, or any agency thereof, including the Social Security Board and the United States Employment Service, or from any other source, for such purpose, and shall be administered separate and apart from all public moneys or funds of the State. All moneys in this Fund shall be deposited in the State Treasury under the same conditions and requirements as is provided by law for other special funds in the State Treasury and shall be disbursed on warrants drawn by the Unemployment Compensation Commission in accordance with regulations prescribed by said Commission. Any balance in this Fund shall not lapse at any time, but shall be continuously available to the Commission for expenditure consistent with this Act. The State Treasurer shall give a separate and additional bond conditioned upon the faithful performance of his duties in

connection with the Unemployment Compensation Administration Fund in an amount to be fixed by the Commission and in a form prescribed by law or approved by the Attorney General. The premiums for such bond and the premiums for the bond given by the Treasurer of the Unemployment Compensation Fund under Section 9 of this Act, shall be paid from the moneys in the Unemployment Compensation Administration Fund.

(b) Employment Service Accounts: A Special "Employment Service Account" shall be maintained as a part of the Unemployment Compensation Administration Fund for the purpose of maintaining the public employment offices established pursuant to Section 12 of this Act and for the purpose of cooperating with the United States Employment Service. There shall be paid into such account the moneys designated in Section 12 (b) of this Act, and such moneys as are apportioned for the purpose of this account from any moneys received by this State under Title III of the Social Security Act, as amended."

Section 10. (b) Amend Section 9 of Senate Bill No. 5, as passed by the Third Called Session of the Forty-fourth Legislature of the State of Texas, as amended by House Bill No. 586, passed by the Regular Session of the Forty-fifth Legislature of the State of Texas, so that the same being amended shall read as follows: Unemployment Compensation Fund

"Section 9. (a) Establishment and Control: There is hereby established as a special fund, separate and apart from all public moneys or funds of this State, an Unemployment Compensation Fund, which shall be administered by the Commission exclusively for the purposes of this Act. This fund shall consist of (1) all contributions collected under this Act, together with any interest thereon collected pursuant to Section 14 of this Act; (2) all fines and penalties collected pursuant to the provisions of this Act; (3) interest earned upon any moneys in the fund; (4) any property or securities acquired through the use of moneys belonging to the fund; and (5) all earnings of such property or securities. All moneys in the fund shall be mingled and undivided.

(b) Account and Deposit: The State Treasurer shall be treasurer and custodian of the fund who shall administer such fund in accordance with the directions of the Commission and the Commission shall issue warrants upon it in accordance with such regulations as the Commission shall prescribe. The Treasurer shall maintain within the fund three (3) separate accounts; (1) a clearing account, (2) an unemployment trust fund account, and (3) a benefit account. All moneys payable to the fund, upon receipt thereof by the Commission, shall be forwarded to the Treasurer who shall immediately deposit them in the clearing account. Refunds payable pursuant to Section 14 of this Act may be paid from the clearing account upon warrants issued by the Commission under such regulations as the Commission may prescribe. After clearance thereof, all other moneys in the clearing account shall be immediately deposited with the Secretary of the Treasury of the United States of America to the credit of the account of this State in the Unemployment Trust Fund, established and maintained pursuant to Section 904 of the Social Security Act, as amended, any provisions of law in this State relating to the deposit, administration, release, or disbursement of moneys in the possession or custody of this State to the contrary notwithstanding. The benefit account shall consist of all moneys requisitioned from this State's account in the Unemployment Trust Fund. Moneys in the clearing and benefit accounts may be deposited by the Treasurer, under the direction of the Commission, in any bank or public depository in which general funds of the State may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund. The treasurer shall give a separate bond conditioned upon the faithful performance of his duties as custodian of the fund in an amount fixed by the Commission and in a form prescribed by law or approved by the Attorney General. Premiums for said bond shall be paid from the administration fund.

(c) Withdrawals: Moneys shall be requisitioned from this State's account in the Unemployment Trust Fund solely for the payment of bene-

fits and in accordance with regulations prescribed by the Commission. The Commission shall from time to time requisition from the Unemployment Trust Fund such amounts, not exceeding the amounts standing to its account therein, as it deems necessary for the payment of benefits for a reasonable future period. Upon receipt thereof the Treasurer shall deposit such moneys in the benefit account and the Commission shall issue its warrants for the payment of benefits solely from such benefit account. Expenditures of such moneys in the benefit account and refunds from the clearing account shall not be subject to any provisions of law requiring specific appropriations or other formal release by State officers of money in their custody. All warrants issued for the payment of benefits and refunds shall bear the signatures of the Treasurer and the countersignature of a member of the Commission or its duly authorized agent for that purpose. All warrants drawn upon the Unemployment Compensation Fund, as well as warrants drawn upon the Unemployment Compensation Administration Fund, and the Employment Service Account, as provided by this Act, shall be drawn by the Unemployment Compensation Commission under rules and regulations adopted by said Commission and it shall not be necessary for the Comptroller of Public Accounts of the State of Texas to issue any warrants drawn on said fund or funds, any other law in the State of Texas to the contrary notwithstanding. Any balance of moneys requisitioned from the Unemployment Trust Fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of, benefits during succeeding periods, or in the discretion of the Commission, shall be redeposited with the Secretary of the Treasury of the United States of America, to the credit of this State's account in the Unemployment Trust Fund, as provided in subsection (b) of this section.

(d) Management of Funds Upon Discontinuance of Unemployment Trust Fund: The provisions of subsections (a), (b) and (c), to the extent that they relate to the Unem-

ployment Trust Fund, shall be operative only so long as such Unemployment Trust Fund continues to exist and so long as the Secretary of the Treasury of the United States of America continues to maintain for this State a separate book account of all funds deposited therein by this State for benefit purposes, together with this State's proportionate share of the earnings of such Unemployment Trust Fund, from which no other State is permitted to make withdrawals. If and when such Unemployment Trust Fund ceases to exist, or such separate book account is no longer maintained, all moneys, properties, or securities therein, belonging to the Unemployment Compensation Fund of this State, shall be transferred to the Treasurer of the Unemployment Compensation Fund, who shall hold, invest, transfer, sell, deposit, and release such moneys, properties, or securities in a manner approved by the Commission, in accordance with the provisions of this Act; provided, that such moneys shall be invested in the following readily marketable classes of securities: bonds or other interest-bearing obligations of the United States of America; and provided further, that such investment shall at all times be so made that all the assets of the fund shall always be readily convertible into cash when needed for the payment of benefits. The Treasurer shall dispose of securities or other properties belonging to the Unemployment Compensation Fund only under the direction of the Commission."

Section 11. Amend Subsection 41a of Article 7047, as amended, Acts Forty-second Legislature, page 355, Chapter 212, Section 1, so that Section 41a of Article 7047, as amended, shall hereafter read as follows:

"41a. Cement distributors — (a) There is hereby imposed a tax of one and three-eighths (1 $\frac{3}{8}$ ) cents on the one hundred (100) pounds, or fractional part thereof, of cement on every person in this State manufacturing or producing in and/or importing cement into this State, and who thereafter distributes, sells or uses the same in intrastate commerce. Said tax shall accrue on and is imposed on the first intrastate distribution, sale or use; provided, however, no tax shall be paid except on

one sale, distribution or use. The person liable for said tax is hereby defined to be a "distributor."

(b) Such tax shall be due and payable at the office of the Comptroller, at Austin, on the 25th day of each succeeding month based on the business done the preceding calendar month, and on or before said date such distributor shall also make and deliver to the Comptroller a report, sworn to, showing all cement distributed, used and sold, upon which a tax accrues as well as all produced within this State and imported into or exported out of this State, and such other information as the Comptroller may require.

(c) A complete record of the business done, together with any other information the Comptroller may require, shall be kept by each distributor; which said records shall be open to the Comptroller, Attorney General, Auditor, and their representatives. The Comptroller shall adopt rules and regulations for the enforcement hereof.

(d) No person shall act as distributor in this State who shall be delinquent in the payment of said taxes, and the Attorney General may enjoin his acting as such and may enforce the provisions hereof by suit instituted in Travis County, or other county having venue.

(e) If any person shall violate any of the provisions hereof, he shall forfeit to the State of Texas as a penalty not less than twenty-five dollars (\$25), and not more than one thousand dollars (\$1,000) for each violation, and each day's violation shall constitute a separate offense. If any person shall fail to pay said tax promptly, he shall forfeit two per cent (2%) thereof as penalty, and, after the first twenty (20) days, he shall forfeit an additional eight per cent (8%). Delinquent taxes shall draw interest at the rate of eight per cent (8%) from due date. The State shall have a prior lien for all delinquent taxes, penalties and interest on all of the property used by the distributor in his business of distributing, selling and/or using cement.

(f) No tax shall be imposed upon any interstate sale or transaction, nor upon any sale, distribution or use exempt under the State or Federal Constitutions, and no other like occupation tax shall be imposed by

any municipal corporation on cement.

(g) The taxes collected under this Section are allocated as follows:

(1)  $\frac{1}{2}$  to the Available School Fund, and

(2)  $\frac{1}{2}$  to the Teachers Retirement Fund.

Sec. 12. That Article IV of the Acts of the Third Called Session of the Forty-fourth Legislature of Texas, Chapter 495, page 2040, H. B. 8, be amended by adding thereto a new section, to be numbered 9 $\frac{1}{2}$  and reading as follows:

"Section 9 $\frac{1}{2}$ . The State Treasurer may consign the stamps provided for in Section 9 of Article IV of this Act to the several county clerks of the State of Texas if and when requested so to do by said county clerks. Such county clerks shall keep a supply of such stamps on hand in their office for sale to any person upon demand and payment therefor and shall remit all monies received from the sale of such stamps to the State Treasurer at any time when requesting additional stamps from the State Treasurer; provided that if the county clerk does not order additional stamps and remit said monies on or before the twenty-fifth (25th) day of each month he shall make remittance of any monies on hand from the sale of such stamps not later than the twenty-fifth (25th) day of each month irrespective of whether such clerk orders additional stamps; and provided further that such county clerks shall be liable under their official bonds for the faithful performance of their duties and the remittance of monies to the State Treasurer from the sale of stamps as herein provided. The State Treasurer shall be responsible for the custody of said stamps and shall demand such receipt as he deems necessary from the county clerks upon consignment of stamps to the county clerks as herein provided, and said Treasurer shall be liable under his official bond for the proceeds received by him."

Sec. 13. There is hereby imposed upon all foreign assessment life insurance companies doing business in Texas an occupation tax of one (1%) per cent of the gross amount of the receipts of such companies from premiums and assessments from Texas residents. Such taxes shall be paid in the same manner and at the same time the one-

half of one per cent tax upon Texas statewide assessment companies is required by law to be paid. No other occupation taxes or gross receipts taxes shall be collected or levied against such company.

It is expressly provided that nothing herein is intended to authorize the Board of Insurance Commissioners to issue a permit to do business in Texas to any foreign mutual assessment life insurance company that is not now doing business in Texas. It is the intention of this Act to regulate and levy a tax on those companies that are now doing business in Texas.

Sec. 14. There is hereby appropriated out of any funds in the General Revenue Fund not otherwise appropriated the sum of three hundred thousand (\$300,000) dollars, to the Old Age Assistance Fund.

Sec. 15. It is hereby expressly provided that all special fees and taxes levied and collected for enforcement and administrative purposes by the State of Texas by virtue of any law of this State and heretofore allocated to the respective departments collecting said fees and taxes, shall be placed in the General Fund of the State Treasury as and when collected, and shall not be expended except by expressed authority of specific appropriations passed by the Legislature. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict only. This section shall become effective September 1st, 1939; provided however, that the provisions of this section shall not apply to funds of the Game, Fish and Oyster Commission of the State of Texas.

Sec. 16. It is the intention of the Legislature to provide revenue for the Teachers' Retirement Fund to the extent that such fund is supplemented by contributions from teachers or beneficiaries of said fund. If at the end of any fiscal year the revenue accruing to said fund shall exceed the amount contributed by the beneficiaries, then in that event the excess over the contributions by the beneficiaries shall revert to the General Revenue Fund. The State Treasurer is hereby instructed to make proper entries on the records of his office to carry this intention into effect.

Sec. 17. All taxes, fines, penalties, and interest due by any person, firm, association, or corporation to the State shall be preferred lien, first and prior to any and all other existing liens, contract or statutory, legal or equitable, and regardless of the time of originations of such lien, upon all the property of any person, firm, association, or corporation.

If any person, firm association, or corporation shall fail to remit proper taxes, due, the Comptroller may employ auditors or other persons to ascertain the correct amount due, and if such taxes have not been properly remitted, the person, firm, association, or corporation shall pay the reasonable expenses incurred in such investigation and audit as additional penalties.

Sec. 18. That all occupation taxes, penalties, and interest accruing to the State of Texas by virtue of any of the re-enacted or repealed provisions as set out in this Act before the effective date of this Act shall be and remain valid and binding obligations to the State of Texas for all taxes, penalties, and interest accruing under the provisions of prior or pre-existing laws, and all such taxes, penalties, and interest now or hereafter becoming delinquent to the State of Texas before the effective date of this Act are hereby expressly preserved and declared to be legal and valid obligations of the State.

The passage of this Act shall not affect offenses committed, or prosecutions begun, under any pre-existing law, but any such offenses or prosecutions may be conducted under the law as it existed at the time of the commission of the offense.

Sec. 19. That the sections, subsections, paragraphs, sentences, clauses, phrases, and words of this Act are separable and severable and if any of the above said enumerated divisions shall be held unconstitutional or void by any court of competent jurisdiction, for any reason, the same shall not affect the validity or constitutionality of any other of the above said enumerated divisions, and the same shall remain and be in full force and effect.

Sec. 20. That all laws and parts of laws, both General and Special, in conflict with any section of this bill are hereby expressly repealed, as to such conflict only.



Sec. 21. The fact that the State of Texas is faced with an ever-increasing deficit in the General Revenue Fund and other funds; and the further fact that additional revenue is needed to carry out the mandate of the people of Texas for the purpose of providing assistance for the adult blind and dependent and destitute children, and others creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each House be suspended, and the same is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

On motion of Senator Spears, it was ordered that the report be printed in the Journal.

#### Election of President Pro Tempore Ad Interim

The President announced the next business in order to be the election of President Pro Tempore Ad Interim.

Senator Moore nominated Hon. R. A. Weinert of Guadalupe County.

Senator Hill nominated Hon. Ben G. Oneal of Wichita County.

The President appointed Senators Hill, Moore and Roberts to take up and count the ballots.

The ballots were taken up and counted, and the President announced that Hon. Ben G. Oneal had received a majority of the votes cast.

On motion of Senator Weinert, Hon. Ben G. Oneal was declared unanimously elected.

#### Report of Conference Committee on House Bill No. 81

Senator Head submitted the following report of the Conference Committee on House Bill No. 81:

Committee Room,  
October 26, 1937.

Hon. Walter F. Woodul, President of the Senate; Hon. R. W. Calvert, Speaker of the House of Representatives.

Sirs: We, your Committee on H. B. No. 81, appointed by the Senate

and House respectively to adjust the differences between the two Houses,

Having had the same under consideration, beg leave to report as follows: That the bill do pass as finally passed in the Senate, and with the Senate amendments attached thereto.

HEAD,  
AIKIN,  
STONE,  
SPEARS,  
ROBERTS,

On the part of the Senate;

WOOD,  
ENGLAND,  
HYDER,  
MAYS,  
HARBIN,

On the part of the House.

Question—Shall the report be adopted?

The report was adopted by the following vote:

Yeas—24

Aikin	Oneal
Beck	Pace
Collie	Redditt
Cotten	Roberts
Head	Small
Hill	Spears
Holbrook	Stone
Isbell	Sulak
Lemens	Van Zandt
Neal	Weinert
Nelson	Winfield
Newton	Woodruff

Nays—5

Brownlee	Rawlings
Burns	Shivers
Davis	

Absent—Excused

Moore	Westerfeld
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#### Message From the House

A Clerk from the House was recognized to present the following message:

Hall of the House of Representatives,  
Austin, Texas,  
October 26, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has adopted the Conference Committee Report on H. B. No. 81 by a vote of 119 ayes, 6 noes.

The House has concurred in Senate amendments to H. B. No. 124 by a vote of 134 yeas, 1 no.

Respectfully submitted,  
LOUISE SNOW PHINNEY,  
Chief Clerk, House of Representatives.

#### House Bill No. 119 on Second Reading

The President laid before the Senate, on its second reading and passage to third reading:

H. B. No. 119, A bill to be entitled "An Act to amend Section 2 of H. B. No. 645 enacted by the Forty-fifth Legislature, at its Regular Session in 1937, and declaring an emergency."

On motion of Senator Woodruff and by unanimous consent, Senate Rules Nos. 31, 31a and 48 were suspended severally, to permit consideration of the bill at this time.

The bill was read second time and was passed to third reading.

#### House Bill No. 119 on Third Reading

Senator Woodruff moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 119 be placed on its third reading and final passage.

The motion prevailed by the following vote:

#### Yeas—29

Aikin	Oneal
Beck	Pace
Brownlee	Redditt
Burns	Roberts
Collie	Shivers
Cotten	Small
Davis	Spears
Head	Stone
Hill	Sulak
Holbrook	Van Zandt
Isbell	Weinert
Lemens	Westerfeld
Neal	Winfield
Nelson	Woodruff
Newton	

#### Nays—1

Rawlings

Absent—Excused

Moore

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

#### Yeas—14

Beck	Newton
Davis	Oneal
Head	Redditt
Hill	Roberts
Holbrook	Spears
Lemens	Sulak
Neal	Woodruff

#### Nays—12

Aikin	Shivers
Burns	Small
Collie	Stone
Isbell	Weinert
Pace	Westerfeld
Rawlings	Winfield

Present—Not Voting

Brownlee

Absent

Nelson Van Zandt

Absent—Excused

Cotten Moore

#### Report of Conference Committee On House Bill No. 133

Senator Van Zandt submitted the following report of the Conference Committee on H. B. No. 133:

Committee Room,  
October 26, 1937.

Hon. Walter F. Woodul, President of the Senate; Hon. R. W. Calvert, Speaker of the House of Representatives.

Sirs: We, your Conference Committee, appointed to adjust the differences between the Senate and House on House Bill No. 133, have had the same under consideration and recommend that the bill do pass in the form hereto attached.

VAN ZANDT,  
NELSON,  
COTTEN,  
WOODRUFF,

On the part of the Senate;

ALSUP,  
BROWN,  
METCALFE,  
LONDON,

On the part of the House.

By Metcalfe, Brown, Alsup.

H. B. No. 133, A Bill to be entitled An Act amending Sections 2 to 23 inclusive of S. B. No. 185 passed at the Regular Session of the Forty-fifth Legislature; re-allocating the moneys appropriated in Section 1 of said S. B. No. 185 including specified amounts to match Federal Funds appropriated for the purpose of conducting work in Vocational Agriculture, Home Economics, Trades and Industries, General Rehabilitation and Rehabilitation for Crippled and Defective Children, attaching conditions, regulations and limitations relative thereto; making various allocations of said appropriation, setting forth the benefits thereof; authorizing aid to such schools in accordance with the conditions specified herein; providing for the support of a certain length of term of all schools meeting the requirement of this Act; providing for the payment each year of the biennium of high school tuition for rural school pupils according to the provisions of H. B. No. 158, General Laws, Regular Session Forty-fourth Legislature, as amended; providing high school tuition for pupils in consolidated or rural high school districts composed of not less than three original districts; providing for the payment of transportation aid under certain conditions; specifying the penalties for violation of any provision of this Act; declaring it to be unlawful for any agent or employee of the State to violate any provision of this Act, and prescribing the punishment thereof; providing all costs of administering funds named in this Act shall be paid out of moneys appropriated in this Act under the authority of the State Superintendent of Public Instruction, under the direction of the State Board of Education; authorizing the State Superintendent of Public Instruction, under the direction of the State Board of Education, to administer the funds appropriated herein; authorizing the State Board of Education or its agents to receive donations and gifts and to place same in the State Treasury in a special fund to be used under the provisions of the

Vocational Rehabilitation Act; providing purposes for which funds allocated hereunder may be used; defining powers of the State Board of Education and the State Superintendent of Public Instruction; providing for the method and manner of appointing certain employees; providing for application for aid; making certain exceptions for counties with less than one thousand four hundred (1,400) scholastics, districts of more than forty-eight (48) square miles, or more than nine miles in length for transportation aid, districts of more than one hundred (100) square miles with a certain number of high schools contained therein; providing for transfer of entire districts under certain conditions; defining the manner of payments and disbursements of all moneys granted under the provisions of this Act; enacting other provisions necessary and incidental to the provisions of this Act, providing the State shall not be pledged nor obligations incurred against the Rural Aid Fund in any one year in excess of amount appropriated and fixing a penalty; providing for the qualifications of teachers in schools receiving State Aid and making certain exemptions; providing no financial aid shall be withheld because of deficiency in certificates held by teachers in a school unless such deficiency is covered by a rule or regulation expressly provided for by Statute of the State of Texas; providing that the tax provisions and other inhibitions set forth herein shall not apply to schools attended by Alabama Indians in Polk County and certain other exceptions; declaring the rule in event any part, section, or provision of this Act is declared unconstitutional it shall not invalidate the rest of this Act; providing for repeal of all laws in conflict herewith and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 15a, 15b, 16, 17, 18, 18a, 19, 20, 21, 22 and 23 of S. B. No. 185, passed at the Regular Session of the Forty-fifth Legislature be and the same is

hereby amended so as to hereafter read as follows, to wit:

"Section 2. Scholastic Population of the District. State Aid under the provisions of this Act shall be distributed in such a way as to assist all school districts of not fewer than twenty (20) scholastics and not more than five hundred (500) scholastics, and consolidated and/or rural high school districts which have an average of not more than two hundred (200) scholastics of each original district composing the consolidated and/or rural high school districts unit, and all districts composed of entire counties having a scholastic population of less than five thousand (5,000); provided that schools in sparsely settled counties may be exempt from the minimum restrictions of twenty (20) scholastics, as hereinafter provided; provided that in such cases the district applying for aid shall be levying and collecting the limit of local tax support as provided by General Law. Sparsely settled counties shall be defined as those having less than one thousand four hundred (1,400) scholastic population in the common school districts. It is expressly understood that the provisions and limitations of this section and other sections in this Act do not apply to vocational aid, and aid for crippled children; provided that the minimum and maximum scholastic limits herein provided shall not apply for transportation aid to any school district containing forty-eight (48) square miles of territory, or more, or which is nine (9) miles or more in length; and provided further that the maximum limitations as to scholastic population herein set forth shall not apply for any type of aid to school districts containing forty-eight (48) square miles of territory or more, or which is nine (9) miles or more in length, provided there is not located in such a district an incorporated city or town having a population of more than thirty-six hundred (3,600) inhabitants, according to the last preceding Federal Census.

Sec. 3. Distance Between Schools. No aid shall be granted to any school under the provisions of this Act which is located within two and one-half (2½) miles of another school of the same race, unless on account of the condition of the roads and other

physical features it is unreasonable and impracticable for the pupils to attend another school; provided that this restriction shall not apply to elementary schools in a consolidated and/or rural high school district nor to any district which at some previous election has voted to remove such conditions by consolidation.

Sec. 4. Teacher-Pupil Load. State aid under provisions of this Act shall be allotted upon the basis of one teacher for any number of scholastics from twenty (20) to thirty-five (35) and one (1) additional teacher for each additional thirty (30) scholastic, or fractional part thereof, residing in the district. It is expressly provided that in the event pupils are transferred into the district the excess fractional part thereof shall not be less than two (2) scholastics. The basis for calculation shall be the net scholastic enumeration of white or colored race, as the case may be, including the transfers into the district, and excluding the transfers out of the district for the current year and there shall be deducted all scholastics who have completed the course of study in their home school, as authorized by the County Board of Trustees, provided that where unusual or extraordinary conditions cause an actual increase in enrollment, an adjustment as to the number of teachers may be made by the State Superintendent with the approval of the State Board of Education not to exceed the teacher-pupil load provided herein; provided further that under no conditions shall aid be granted any district in excess of the number of teachers actually contracted for and employed.

Sec. 5. Average Daily Attendance. No school shall be granted salary aid under the provisions of this Act whose average daily attendance is less than sixty-five per cent (65%) of the scholastic census enrollment for either white or colored school. Provided, the provisions of this Act shall not apply to any school where there is any kind of epidemic of sickness, and such exemption may be allowed only when the facts are determined and certified to by the county or State District Health Officer residing in the area affected. Districts where parochial schools are maintained are

exempt from the provisions of this section.

Sec. 6. Tax Levy. No school district shall be eligible to receive aid under the provisions of this Act unless it shall be providing for the annual support of its schools by voting, levying, and collecting for the current year a local maintenance school tax, exclusive of the tax for interest and sinking fund for bonds, of not less than fifty (50c) cents on the one hundred (\$100.00) dollars, of property valuation in the entire district, or not less than seventy-five (75c) cents, inclusive of the tax for interest and sinking fund for bonds for the year ending of August 31, 1938; and providing further, that the property valuation shall not be less than said property is valued for State and county purposes. Any school district which shall after October 1, 1937, reduce its existing property assessment and/or existing tax rates, thereby enabling it to participate under this Act, shall not be eligible to receive aid from any of the funds herein provided; providing further that for the year ending August 31, 1939, no district shall receive aid unless it shall be levying and collecting local maintenance tax of not less than fifty (50c) cents on the one hundred (\$100.00) dollars valuation, and provided further that the provisions of this section shall apply to sending districts for each of the years covered by this allocation.

Sec. 7. Provided the State Superintendent shall take into consideration, in fixing allowances to school districts, any loss sustained by said district by reason of the Federal Government buying lands for national forests, and by reason of the location in said districts of University Lands, and the State Superintendent shall be authorized to make allocations to said districts by virtue of losses sustained by said district by reason of Federal purchase of lands, the amounts to be fixed by State Superintendent based upon existing facts and circumstances applicable to all other school districts, and in all exceptions provided herein the consent of the State Board of Education shall be first had and obtained.

Sec. 8. Salary Schedule. No part of the aid herein provided shall be used for increasing the monthly salary of any teacher, except as

herein authorized, but funds provided for in this Act shall be used for the exclusive purpose of extending the length of the school term of the schools situated in the district receiving such aid on the basis of a schedule of teachers' salaries to be determined by the State Superintendent of Public Instruction with the approval of the State Board of Education, provided, however, that said agencies shall allow an increase of not more than twenty (20%) per cent for salaries less than one hundred (\$100.00) dollars per month allowed in schedules heretofore adopted and may allow not more than fifteen (15%) per cent increase on salary schedules in excess of one hundred (\$100.00) dollars per month allowed for the last preceding year. However, the basic pay in no event shall not be less than eighty-five (\$85.00) dollars per month on eight months' basis; provided that in no case shall aid be granted a school in excess of the amounts specified in the teacher's salary contract on file in the office of the county superintendent.

Sec. 9. Length of Term. All schools of the unaffiliated class receiving aid shall provide a term of approximately eight months. These schools shall be so classified by the county board so as to provide as nearly as possible an eight (8) months term out of State, county and local funds. Should there not be sufficient funds to maintain the schools as herein stated, then aid may be granted subject to the other provisions of this Act. Should any school district eligible to receive aid under the provisions of this Act maintain a salary schedule in excess of the salary schedule as determined by the State Superintendent with the approval of the State Board of Education, the amount of aid received by such school district shall be reduced by the amount of such excess.

Nothing in this Act shall be construed as forcing the consolidation of any schools, nor shall any aid be withheld from any school for its failure to consolidate.

Sec. 10. High School Tuition. It is hereby expressly provided that a sufficient amount of funds allocated by this Act shall be used for the payment of high school tuition not to exceed seven and 50/100 (\$7.50) dollars per pupil per month. High school tuition shall be paid according

to the provisions of House Bill No. 158, General Laws, Regular Session, Forty-fourth Legislature, as amended, and subject to the limitation and restriction provided in this Act for each of the years of this biennium. Providing that the provisions of this Section shall not apply to granting of aid under terms of this Section for vocational education or crippled children. It is further provided that high school tuition aid, as above set out, shall be granted for pupils transferred to outside high schools for the Waco State Home at Waco, and from the Alabama and Coushatti Indian Reservation near Livingston; provided the aid so granted shall not exceed the per capita tuition charged other schools' transferred high school pupils by the high schools affected hereby.

Sec. 11. Transportation Aid. The County Superintendents and County School Board are hereby authorized to set up a system of transportation for the purpose of transporting high school pupils from their districts, and within consolidated districts, to the nearest convenient accredited high school or to any nearer high school of higher classification than the sending district, when designated by the County Board. The expense of such transportation shall be paid out of the funds hereby provided, not to exceed two (\$2.00) dollars per pupil per month. Provided, further, that in districts composing an entire county, high school transportation aid as authorized in this Section may be granted for the purpose of transporting high school pupils within such districts to the most convenient accredited high school.

It is further provided that the districts through which these buses travel may make provisions with the County Superintendent and the County School Board to have any other children not provided for herein, transported within and between their respective districts, and said district may make application for State aid thereon to an amount not to exceed one (\$1.00) dollar per month per pupil. Provided, that where regular buses do not run in sparsely settled sections of counties which are operating under a county unit system, the County School Board and County Superintendent are authorized to make provisions

for the transportation of pupils within said districts, and may make application for State aid thereon to an amount not to exceed one (\$1.00) dollar per month per pupil. Providing that all school districts containing one hundred (100) square miles of territory or more may receive transportation aid of two (\$2.00) dollars per month per pupil. And provided further, that like aid of one (\$1.00) dollar per month per pupil shall be made in respect of transportation in any common school district in which there exists two school plants, one of which is a first class four (4) year high school and which said plants are separated by a distance of not less than two and one-half (2½) miles; provided that transportation aid shall be paid on pupils whose grade is not taught in their home district by virtue of a contract transferring said grade to another school, providing such pupils live more than two and one-half miles from the school actually attended.

Sec. 12. Penalty Provision. Any district violating any of the provisions of this Act shall forfeit all rights to such aid and may be disqualified to receive any aid of any nature under any section of this Act for the current year. Should any school which would otherwise be eligible to receive aid agree, provide, or contract with teachers to pay a smaller monthly salary during the remainder of the terms following the granting of aid, provided out of local funds, than is paid out of State funds, then such school shall forfeit its rights to receive aid. Provided any census trustee who shall wilfully make any false report in his roll or summary shall forfeit the right of the district he serves to receive any amount of money that may be provided for in this Act.

It is specifically provided herein that the State Board of Education, State Superintendent of Public Instruction, or any agency charged with the responsibility of administering the funds hereby appropriated shall not pledge the State nor year in excess of the amount herein appropriated, and it is the sense of this Legislature that the amounts herein appropriated shall cover in full all amounts to be spent for the purpose contemplated by this Act for the period covered by this Act. Who-

ever violates this provision of this section shall be deemed guilty of a misdemeanor, involving official misconduct, and upon conviction thereof, shall be fined in a sum not less than two hundred (\$200.00) dollars nor more than one thousand (\$1,000) dollars and shall be subject to removal from office.

Sec. 13. All expenditures for costs of administering the various funds named in this Act shall be paid out of the money allocated in this Act and such expenditures shall not exceed the amounts authorized by the General Departmental Appropriation Bill, except as otherwise herein provided.

It is herein specifically provided that out of the money appropriated in Section 1 of S. B. No. 185, passed at the Regular Session of the Forty-fifth Legislature, the sum of two million two hundred thousand (\$2,200,000) dollars is hereby set aside for teacher salary aid; one hundred and fifty thousand (\$150,000) dollars is specifically set aside for the State program for rehabilitation of Crippled Children; seven hundred fifty thousand (\$750,000) dollars for High School Tuition; one million, seven hundred and eighty thousand (\$1,780,000) dollars for transportation aid; and six hundred and twenty thousand (\$620,000) dollars for Industrial Aid and to match Federal funds for vocational agriculture, Home Economics, Trades and Industries, and General Rehabilitation according to the Federal laws governing vocational education. Each of the above named allocations being for each year of the biennium.

Provided that the Department of Vocational Rehabilitation is hereby authorized to receive donations and gifts and place same in the State Treasury of Texas in a special fund to be used under the provisions of the Vocational Rehabilitation Act.

Sec. 14. Powers of State Board of Education and of State Superintendent of Public Instruction. It shall be the duty of the State Board of Education, and it is hereby authorized, to take such action and to make such rules and regulations not inconsistent with the terms of this Act as may be necessary to carry out the provisions and intentions of this Act, and for the best interest of the schools for whose benefit the funds

are appropriated. It shall be the duty of the State Superintendent of Public Instruction to appoint the number of inspectors hereinafter authorized to make a thorough investigation, in person, of the grounds, building equipment, teaching staff, and financial condition of each school applying for aid; and no aid shall be given unless it can be shown that all provisions of this Act have been complied with, and that such amount of aid is actually needed. Provided, however, that no regulation of the State Superintendent or the State Board of Education shall conflict with any provisions of this bill or any present statute. Provided further, that the State Superintendent of Public Instruction shall appoint not to exceed twenty-four supervisors, four stenographers, one director of Rural Aid, one secretary of Rural Aid, and one director relating to high school supervision. The twenty-four supervisors appointed hereunder shall reside in their respective supervisory districts. The salaries and traveling expense of all such appointees as provided for above in this section shall be paid for out of moneys herein appropriated.

The personnel for administration of vocational education and crippled children shall be appointed by the State Superintendent of Public Instruction. The personnel shall consist of the following:

- 1—State director of vocational agriculture;
- 1—State supervisor of vocational agriculture;
- 1—Assistant supervisor of vocational agriculture;
- 4—District supervisors of vocational agriculture;
- 1—State director of trades and industries and chairman of division;
- 1—State supervisor of trades and industries;
- 4—District supervisors of trades and industries;
- 1—State director of home economics;
- 1—State supervisor of home economics;
- 4—District supervisors of home economics;
- 3—Stenographers for vocational agriculture and trades and industries and home economics division;

Extra stenographic help for vocational agriculture, trades and industries and home economics division;

1—Director of vocational rehabilitation;

2—Supervisors of rehabilitation;

2—Supervisors for crippled children;

2—Stenographers;

1—Secretary;

1—Chief Clerk; other help, as authorized in the Departmental Appropriation Bill.

1—Janitor for vocational agriculture, trades and industries; and home economics division.

The salaries and travel and other expenses of these appointees as provided for above in this Section shall be paid for out of moneys herein appropriated for vocational education, rehabilitation, crippled children, respectively, and in amounts as passed by the Departmental Appropriation Bill for the biennium ending August 31, 1939.

Sec. 15. Application for Aid. The trustees of the schools authorized in Section 2, of this Act, may send to the State Superintendent, on forms provided by the State Department of Education, a list of teachers employed in the school, showing the monthly salary, experience and training of each, together with an itemized statement of expected receipts and expenditures, the length of term, and such other information as may be required, and the State Superintendent, under the direction of the State Board of Education, may, subject to the provisions of this Act, grant to the school such an amount of this fund as will, with the State and County available funds, together with the local funds, maintain the school for a term not to exceed nine (9) months for classified or affiliated high schools and approximately eight (8) months for unaccredited high schools; provided that if the school has sufficient State and County available funds to maintain the school for an eight (8) months term according to the salary schedule adopted by the State Board of Education or with its local maintenance tax, to maintain the desired length of term, not to exceed nine (9) months, as provided in Section 2, it shall not be eligible to receive aid; provided further, that the county superintendent shall approve all contracts with teachers, supervising officers, and bus drivers

in all schools before such schools may be eligible to receive aid under any provisions of this Act. Provided, also, that all aid granted out of the funds herein provided shall be allotted only on the basis of need, based upon a proper budgeting of each district asking for any form of aid.

Sec. 16. The trustees of the schools authorized to apply for Aid may send to the proper authorized authority on forms provided by said authority a list of the teachers employed in the schools showing the monthly salary, experience, and training of each, together with an itemized statement of budgeted receipts and expenditures and such other information as may be required. The application shall be sworn to by the president and secretary of the board of trustees of each of the schools applying for Aid. The county superintendent shall approve all contracts with teachers, supervising officers, and bus drivers in all schools applying for Salary, Transportation, and Tuition Aid under the provisions of this Act. All Aid granted out of the funds provided shall be allotted only on the basis of need based upon an approved budget of each district asking for any form of aid, except as otherwise provided in this Act. All applications for Aid shall be on file with the proper authorized authority not later than October 1 of each year of the biennium provided, however, that from and after January 1, 1938 the authorized authority herein referred to shall mean the office of the Director of the Equalization Division of the State Department of Education at Austin, Texas, and any school not filing such application before such date of each year shall not be eligible for aid for the current year.

It is provided that no application for Aid shall be approved until all applications filed before October 1 of the current year have been considered; and provided further, each application shall, if the amount of money available is not sufficient to pay to all approved applications in full, receive the same proportion of Aid as every other approved application.

It is further provided, that the application for Aid including high school tuition) for any current year shall not be approved in an amount in excess of the amount of money



available during such current year for all types of Aid herein provided for. Even though the application for Aid, on a basis of need shown exceed the amount of money available during such current year for all types of Aid, then each application shall be proportionately reduced so that the total of all approved applications for such current year will not exceed the amount of money available for said year for all types of Aid.

Sec. 17. Warrants for all money granted under the provisions of the Act shall be transmitted to treasurers of depositories of school districts to which Aid is granted in the same manner as warrants for State apportionments are now transmitted. The amount of money granted for each type of Aid, except high school tuition, shall be set up as a separate account by the district receiving same and disbursements from said accounts shall be made only for the specific purposes for which the money was granted. If the money in said fund is used for any purpose other than that for which allocated then said district shall not be eligible to receive any type of Aid for the following year. It shall be the duty of all treasurers of depositories to make annually, before September 10, of each year, itemized reports under oath to the Director of Equalization of the expenditures of all money granted under the provisions of this Act. It shall also be the duty of each county school superintendent, and each secretary of the school board of an independent school district to file with said proper authorized authority, before September 10 of each year, a sworn account detailing the receipts and disbursements of all Rural Aid Funds, with correct cash balance on August 31, verified by the depository clerk. Failure to file such reports will make such district ineligible to receive Aid for the ensuing year. It is provided that all unused obligated balances in Rural Aid Funds in any district on August 31, shall be returned to the State Treasurer and by him credited to the appropriation from which it came; provided, however, that the balances herein providing for the return of moneys shall be subject to the obligation of district holding claims against that fund and subject to

reapportionment of the obligation of the receiving district thereof.

Not later than January 15 of each year, the State inspection of all Rural Aid Schools shall be completed. Initial payment by warrant of not more than fifty per cent (50%) of the total amount allotted to any one school shall then be made, and the final payments shall be made on a percentage basis to such school in such a manner that all schools, whose applications for Aid have been approved, will receive the same proportion of Aid. After final payment is made, each district shall by August 31, of each year, file with the Director of Equalization a signed receipt acknowledging full payment of their approved claim and/or request. It is provided that any amount set aside for schools not having reached sixty-five per cent (65%) attendance shall be prorated among the schools eligible to receive aid or final payment.

Sec. 18. Sparsely Settled Districts Defined. A sparsely settled district as referred to in Section 2 hereof and as herein defined is a school district within a county having less than one thousand four hundred (1,400) scholastics enumerated within all of such counties common school districts and such district having less than twenty (20) enumerated scholastics therein and such districts so defined when applying for Aid and having, levying and collecting a tax as provided in Section 6 thereof may be exempt from the minimum teacher-pupil load, and in no instance shall this exemption be extended or applicable to any district employing more than one (1) teacher; provided, however, the State Superintendent, with the consent of the State Board of Education may grant aid for not more than one additional teacher for any such common school district.

Sec. 19. Transfer of Entire District. On the agreement of the board of trustees of the districts concerned or on petition signed by a majority of the qualified voters of the district and subject to the approval of the county superintendent and state superintendent, the trustees of a district which may be unable to maintain a satisfactory school may transfer its entire scholastic enrollment, or any number of grades thereof, to a convenient school of higher rank,

and in such event, all of the funds of the district, including the State aid to which the district would otherwise be entitled under the provisions of this Act, or such proportionate part thereof as may be necessary may be used in carrying out said agreement.

Sec. 20. Disbursement. Warrants for all money granted under the provisions of this Act shall be transmitted by the State Superintendent of Public Instruction, when the account for same has been audited by the State Auditor, to treasurers of depositories of school districts to which aid is granted and approved in the same manner as warrants for State apportionments are now transmitted and it shall be the duty of all treasurers of depositories to make annual itemized reports under oath to the Director of Equalization of the expenditures of all money granted under the provisions of this Act as herein directed.

Sec. 21. The State Auditor's office is hereby directed to audit all applications for aid after same have been passed on by the Director of Equalization and when such application has been approved by said director, it shall then be the duty of the State Auditor to approve, modify or reject such application before same is presented to the State Board of Education by the Director of Equalization.

(a) It is further provided that in addition to the administrative costs authorized herein and set forth in the General Departmental Appropriation Bill for the biennium ending August 31, 1939, that the sum of one thousand five hundred (\$1,500) dollars or so much thereof as may be necessary, is also allocated and prorated from the sums herein allocated to the division of equalization in the Department of Education for the purpose of equipping said office with six (6) letter size files, one (1) legal size file, one (1) steel cabinet for office books, one (1) complete set of fillers and folders for all files, one (1) calculating machine, to be purchased by the State Board of Control in the same manner as other State supplies are obtained and chargeable against the appropriation allocated herein for the year ending August 31, 1938.

(b) There is also allocated from the appropriation authorized in S. B. No. 185, passed at the Regular Ses-

sion of the Forty-fifth Legislature, the sum of four thousand five hundred (\$4,500) dollars for the year ending August 31, 1938, and the sum of four thousand five hundred (\$4,500) dollars for the year ending August 31, 1939, to the State Auditor's office, said sums to be allocated and prorated from the sums herein allocated to the Equalization Fund for the purpose of furnishing supervision by the said Department as herein directed, and such allocation shall be in addition to that authorized by the Departmental Appropriation Bill for the biennium ending August 31, 1939, and shall be for the purpose of furnishing a full time Assistant Auditor and such other aid as may be necessary to adequately and promptly perform the duties herein directed and authorized.

Sec. 22. In counties which constitute a single school district and in which there is no governing body designated as the county school board, the duties authorized by this Act to be performed by the county school board are hereby conferred upon the existing governing bodies of such districts, and all aid shall be granted on the basis of need after proper budgeting, the same as herein provided.

Sec. 23. Miscellaneous Provisions. Rural schools accepting the provisions of this Act shall be entitled to share in the distribution of State and County available school funds and in all other school funds in the same manner as all other school districts; and in case high school grades are maintained, the community shall still be entitled to participate in the distribution of any aid that may be extended by the Legislature of Texas for vocational or industrial purposes to high schools of this State; provided, however, that no school or school district shall be denied aid for failure or refusal to buy any books, equipment, charts and/or school supplies offered by any person, firm, or corporation unless the minutes of the State Board of Education of Texas show that said books, equipment, charts, and/or supplies were approved by a unanimous vote of said State Board of Education.

Provided that, if an incorporated city, town or village is levying and collecting taxes for the support or benefit of its municipal school district in an amount not less than pro-

vided for in Section 6 of this Act, and/or for interest and sinking funds for bonds or other indebtedness issued or incurred for the direct benefit of such municipal school district, then, in any such event, such taxes so levied and collected by such incorporated city, town or village shall for the purpose of this Act be considered as taxes levied and collected by such school district; and providing further that high school tuition of not to exceed two dollars and fifty cents (\$2.50) per month for each high school student attending such classified or affiliated high school shall be granted for pupils in consolidated and rural high school districts composed of not less than three (3) original districts, and whose valuation is less than fifteen hundred dollars (\$1,500) per scholastic population and which is assessing, levying and collecting not less than \$1.00 tax per \$100.00 valuation, and whose salary budget shows a need therefor, and that maintains an affiliated high school of not less than sixteen (16) accredited units.

And, it is further provided that it shall be the duty of the county superintendent to receive and check all high school tuition applications to determine the following facts: Age of the pupil, the district in which he was enumerated, the district in which he lives, the district in which he attends school, the grade in which the pupil is classified in the receiving district, the highest grade taught in the home district of the pupil, the amount of time the pupil was in actual attendance at the receiving school, and the rate and free time allowed the pupil by the receiving high school. When such application has been reviewed and checked as herein provided, same shall be properly certified to by such county superintendent, and the president and/or secretary of the school board of the sending district of the pupil, before said application is transmitted to the Director of Equalization at Austin, Texas, for his inspection, rejection, modification, or approval, and no such application shall be considered by the Director of Equalization unless same has been duly deposited with him at Austin, Texas, on or before June 15, of each year of the biennium; provided further that the officials of the sending district, or the county superintendent shall furnish the superin-

tendent or the secretary of the school board of the receiving school a copy of the budget required by the State Department for establishing the eligibility of the sending district for having the State pay tuition on its high school scholastics.

Section 24. It shall be the duty of the State Board of Education and the State Superintendent of Public Instruction to pay by warrant not more than fifty (50) per cent of the total amount allotted to any one school as an initial payment, and that the remaining payments shall be made on a percentage basis to the schools in such manner and amounts that the total expenditures for any one year shall not exceed the total allocations appropriated for that year.

The State Board of Education and the State Superintendent of Public Instruction are hereby prohibited from paying any one or more schools its or their allotment in an amount greater, on a percentage basis, than is paid any other school. This provision shall apply to all allotments and claims and/or allocations of appropriations provided for in this measure.

It is specifically provided herein that the State Board of Education and the State Superintendent of Public Instruction shall not pledge the State nor incur obligations against the rural aid fund in any amount or in any one year in excess of the amount herein appropriated, and it is the sense of the Legislature that the amounts herein allocated shall be in full of all amounts to be spent for the purposes contemplated by this Act for the period covered by this Act.

Sec. 25. It shall be unlawful for any county school superintendent or the superintendent of any common or independent school district, school teacher, county trustee and/or district trustees or any other person directly to use or promise to use, pay or promise to pay, any of the funds herein appropriated for the purpose of paying the salary or/and expenses of any person or persons to maintain a lobby for any purpose. Violation of this provision shall forfeit the right or rights of the county or any school district in the county from participating in the funds herein appropriated.

Provided further that no financial aid shall ever be withheld from any

school entitled to such aid under the provisions of this bill by virtue of an alleged deficiency in the certificates held by the teaching personnel of any such school on account of and/or by virtue of any regulation of the State Superintendent of Public Instruction, the Department of Education, and/or the Board of Education, unless such rule or regulation is expressly provided by statutes of this State.

Provided that the tax provisions and other inhibitions provided in said bill shall not apply to the school where the Alabama Indians attend school in Polk County, Texas.

Sec. 26. Repealing and Constitutional Clauses. All laws or parts of laws in conflict herewith are hereby repealed, and provided, however, that all provisions of H. B. No. 327, Acts Regular Session Forty-fourth Legislature not in conflict herewith shall be cumulative of the provisions of this Act, and in the event any provision of this Act, is unconstitutional or invalid the remainder of this Act shall, nevertheless, remain in effect."

Sec. 2. Emergency Clause. The fact that many schools are in need of additional aid other than State per capita apportionment and local maintenance, and that public policy requires that proper provisions be made for the maintenance and support of the schools with as little delay as possible, and the further fact that considerable time is required in preparation for carrying out the terms of this Act, create an emergency and an imperative public necessity that the Constitutional Rule, requiring bills to be read on three several days, be, and the same is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Question—Shall the report be adopted?

Yeas and nays were demanded, and the report was adopted by the following vote:

Yeas—23

Beck	Hill
Brownlee	Lemens
Burns	Neal
Collie	Nelson
Cotten	Newton
Davis	Oneal

Pace	Stone
Rawlings	Sulak
Redditt	Van Zandt
Roberts	Westerfeld
Shivers	Woodruff
Small	

Nays—8

Aikin	Moore
Head	Spears
Holbrook	Weinert
Isbell	Winfield

#### Message From the House

A Clerk from the House was recognized to present the following message:

Hall of the House of Representatives,  
Austin, Texas,  
October 26, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill:

S. B. No. 28, A bill to be entitled "An Act to amend paragraph (4) of Article 2350, Title 44, of the Revised Civil Statutes of the State of Texas, 1925, as added by the Acts of 1937, Forty-fifth Legislature, H. B. No. 765, this Act shall not apply to counties having a population of seven thousand, six hundred eighty (7,680) or less, according to the last Federal Census, and declaring an emergency."

The House has adopted the Conference Committee Report on H. B. No. 133 by a vote of 107 yeas, 28 noes.

Respectfully submitted,

LOUISE SNOW PHINNEY,  
Chief Clerk, House of Representatives.

Oath of Office Administered to  
President Pro Tempore Ad  
Interim

The President appointed Senators Hill, Westerfeld, Newton and Davis to escort Hon. Ben G. Oneal to the President's stand.

The committee having performed the duty, the President administered to Hon. Ben G. Oneal the constitutional oath of office as President Pro Tempore of the Senate Ad Interim.

The President then presented President Pro Tempore Ad Interim

Oneal, who addressed the Senate and thanked the Senators for the honor conferred upon him.

#### Bills and Resolutions Signed

The President signed, in the presence of the Senate, after giving due notice thereof, the following enrolled bills and resolutions:

House Bills Nos. 69, 103, 81, 102, 124, 129, 133, 151, 161, 167, 119, 142, 97, 78, 70, 73, 146, 74; House Concurrent Resolutions Nos. 62, 63, 21, 24, 61, 58, 57, 54, 46, 43, 32, 31, 51, 65; Senate Bills Nos. 16 and 28; and Senate Concurrent Resolutions Nos. 22, 8, 24, 21.

#### Senate Notified

A committee of five members of the House appeared at the bar of the Senate and were duly announced; and Mr. Russell, for the committee, notified the Senate that the House has completed its labors and is ready to adjourn sine die.

#### Committee to Notify Governor and House

On motion of Senator Rawlings, it was ordered that a committee be appointed to notify the Governor, and a committee appointed to notify the House, that the Senate has completed its labors and is now ready to adjourn sine die.

Accordingly, the President appointed the following committees:

To notify the House: Senators Spears, Lemens, Aikin, Head, Burns, Beck, and Roberts.

To notify the Governor: Senators Rawlings, Holbrook, Stone, Weinert, and Moore.

#### House Notified

The committee to notify the House that the Senate is now ready to adjourn sine die appeared at the bar of the Senate, and Senator Spears for the committee, announced the duty assigned it had been duly performed.

#### Governor Notified

The committee to notify the Governor that the Senate has completed its labors and is now ready to adjourn sine die appeared at the bar of the Senate and Senator Rawlings, for the committee, announced the

duty assigned it had been duly performed.

#### Adjournment Sine Die

Senator Isbell moved that the Senate now adjourn sine die.

The motion prevailed.

The President, accordingly, at 11:58 o'clock p. m., declared the Second Called Session of the Forty-fifth Legislature adjourned sine die.

### APPENDIX

#### Reports of Committees on Engrossed and Enrolled Bills

Committee Room,  
October 26, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Engrossed Bills beg to report we have carefully examined, compared and read Senate Concurrent Resolutions Nos. 14, 17, 21 and 22, and find same correctly engrossed.

ROBERTS, Chairman.

Committee Room,  
October 26, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Engrossed Bills beg to report we have carefully examined, compared and read Senate Bills Nos. 27 and 28, and find same correctly engrossed.

ROBERTS, Chairman.

Committee Room,  
October 26, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Enrolled Bills beg to report we have carefully examined, compared and read Senate Concurrent Resolutions Nos. 2, 8, 12, 13 and 17, and find same correctly enrolled.

WESTERFELD, Chairman.

Committee Room,  
October 26, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on En-

rolled Bills beg to report we have carefully examined, compared and read Senate Bills Nos. 16 and 28, and find same correctly enrolled.

WESTERFELD, Chairman.

#### Reports of Standing Committees

Committee Room,  
October 23, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred  
S. C. R. No. 6,

Have had same under consideration, and I am instructed to report it back to the Senate, with the recommendation that it do pass, and be not printed.

REDDITT, Chairman.

Committee Room,  
October 23, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred

H. B. No. 159, A bill to be entitled "An Act authorizing the Old Age Assistance Commission to pay interest on warrants issued against the Texas Old Age Assistance Fund, making an appropriation therefor; restricting the total amount to be paid on account of any warrant

issued for a given month; prescribing the powers and duties of certain State officials in reference thereto; prescribing the maximum rate of interest to be paid; providing that the authority conferred in this Act shall not be limited by the provisions of Section 6 of Chapter 472, Acts of the Second Called Session of the Forty-fourth Legislature; making available appropriation made in Chapter 472 of the Acts of the Second Called Session of the Forty-fourth Legislature for the purposes of this Act until the appropriation made in House Bill No. 23 of this Second Called Session of the Forty-fifth Legislature becomes available, and reappropriating any unexpended balances of said appropriation for the fiscal year ending August 31, 1939, and limiting the amount of warrants to be issued hereunder to not more than three million dollars (\$3,000,000.00), and further providing that no such warrants on which interest is to be paid shall be issued after March 1, 1938; making this Act cumulative of other laws but providing that it shall take precedence over any law in conflict herewith; and declaring an emergency,"

Have had same under consideration, and I am instructed to report it back to the Senate, with the recommendation that it do pass, and be printed.

REDDITT, Chairman.

**REPORT OF EXPENDITURES BY SENATE FROM  
CONTINGENT EXPENSE FUND**

Senate Chamber,  
Austin, Texas, November 2, 1937.

Mr. Noel K. Brown, Journal Clerk, State Senate,  
Second Called Session Forty-fifth Legislature,  
Austin, Texas.

Dear Mr. Brown:

I am herewith submitting to you an itemized statement of the expenditures of the Senate for contingent expenses during the Second Called Session of the Forty-fifth Legislature, same to be printed in the Senate Journal. This statement shows all payments made up to and including November 2, 1937.

Acme Glass Co.

Voucher No. 115

1 piece crystal sheet glass 3/16" thick—10½x 49½" top edge ground smooth or rounded..\$	2.00	\$	2.00
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American Publishing Co.

Voucher No. 163

1 daily subscription to the Austin American and 4 daily subscriptions to the Austin Statesman . . . . .	3.35		3.35
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Austin Ice Co.

Voucher No. 191

For 3300 lbs. of ice.....	11.23		11.23
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The Avalanche-Journal Publishing Co.

Voucher No. 135

Subscription to the Avalanche and Journal for one month . . . . .	1.00		1.00
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Mabel Berry

Voucher No. 157

Rental on 1 typewriter September 27, 1937, to October 26, 1937.....	4.00		4.00
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A. W. Brill

Voucher No. 117

Miscellaneous Porter Supplies.....	6.26		6.26
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The Brownsville Herald Publishing Co.

Voucher No. 139

1 daily subscription to the Brownsville Herald	.75		.75
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Noel K. Brown

Voucher No. 153

Rental on 1 typewriter July 25, 1937, to August 25, 1937.....	4.00		4.00
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Voucher No. 159

Rental on 1 typewriter, August 25, 1937, to October 25, 1937.....	8.00		8.00
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T. B. Butler Publishing Co.

Voucher No. 125

1 daily subscription to The Courier-Times....	.75		.75
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Roy R. Callaway, Agt.

Voucher No. 177

4 daily subscriptions to the San Antonio Express . . . . .	3.00		3.00
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Capital Printing Co.

Voucher No. 189

2000 Requisition Blanks.....	3.48		
3000 Letterheads . . . . .	10.37		13.85

Mozelle Cowan Voucher No. 150 Rental on one typewriter September 27, 1937, to October 27, 1937.....	4.00	4.00
The Dallas Dispatch Voucher No. 120 1 daily subscription to the Dallas Dispatch..	.75	.75
The El Paso Times Voucher No. 129 1 daily subscription to The El Paso Times....	.65	.65
The El Paso Herald-Post Voucher No. 134 1 daily subscription to The El Paso Herald- Post . . . . .	.65	.65
The Enterprise Co. Voucher No. 164 1 daily subscription to The Beaumont Enter- prise and Beaumont Journal.....	1.25	1.25
The Fort Worth Press Voucher No. 174 2 daily subscriptions to The Fort Worth Press	1.00	1.00
Gammel's, Inc. Voucher No. 182 2 Harlow's Session Laws—45th Leg., Reg. Session . . . . .	12.00	
1 Ray's Adv. Session Laws—1st Called Ses- sion, 45th Leg.....	3.00	15.00
S. C. Gideon Voucher No. 109 For restoration of paintings in Senate Cham- ber, balcony, and corridor.....	500.00	500.00
The Houston Press Voucher No. 126 6 daily subscriptions to The Houston Press..	3.90	3.90
Hull Stationery & Printing Co. Voucher No. 106 For 200 No. 22 Acco Fasteners.....	2.16	2.16
Humble Oil & Refining Co. Voucher No. 110 For one gal. Humble furniture polish.....	.80	.80
The Kilgore Daily News Voucher No. 128 1 daily subscription to The Kilgore Daily News	.60	.60
The Laredo Times Voucher No. 124 1 daily subscription to The Laredo Times....	.65	.65
Leston Lawrence Voucher No. 149 10 daily subscriptions to The Houston Post...	9.00	9.00
D. R. Lilienstern Voucher No. 161 26 daily subscriptions to The Dallas News....	22.10	22.10
Amelia Mallory Voucher No. 152 Rental on one typewriter from September 27, 1937, to October 27, 1937.....	4.00	4.00
Miller Blue Print Co. Voucher No. 122 ½ gross Castell No. 9007-3H pencils, with erasers . . . . .	6.24	6.24



<b>McKean-Eilers Co.</b>		
<b>Voucher No. 119</b>		
Miscellaneous Porter Supplies.....	10.50	
½ gross Carter's ink No. 816.....	1.24	11.74
<b>Voucher No. 108</b>		
5/12 gross steno notebooks.....	2.95	2.95
<b>Voucher No. 145</b>		
½ doz. inky racer No. 492.....	1.05	
½ doz. Carter's red ink.....	1.63	2.68
<b>Voucher No. 168</b>		
2 pencil sharpeners Boston No. 1.....	6.67	
1 doz. inky racer No. 492.....	2.09	
1 gross shoe laces 1500/27.....	.55	
1 gross shoe laces 1500/36.....	.69	10.00
<b>Voucher No. 178</b>		
½ gross steno notebooks No. 682.....	3.54	3.54
<b>Voucher No. 184</b>		
½ gross Carter's paste No. 157.....	1.86	
½ doz. Carter's ink—2 oz.....	2.48	4.34
<b>McKesson &amp; Robbins, Inc.</b>		
<b>Voucher No. 188</b>		
2 bottles Carbon Tetrachloride 1 lb. S.....	.50	
2 bottles Carbon Tetrachloride 1 lb. S.....	.50	1.00
<b>National Disinfectant Co.</b>		
<b>Voucher No. 143</b>		
5 gals. Dominant metal polish.....	10.00	10.00
<b>Nelson Davis &amp; Son</b>		
<b>Voucher No. 116</b>		
200 lbs. Martin's floor sweep without sand...	3.90	
1 case No. 6 Rosebud Matches.....	3.90	7.80
<b>Voucher No. 144</b>		
5 cases of paper towels—Econdex.....	12.35	12.35
<b>S. S. Pettus</b>		
<b>Voucher No. 142</b>		
12 daily subscriptions to The Fort Worth Star-Telegram . . . . .	10.20	
11 daily subscriptions to The Houston Chronicle . . . . .	9.90	
1 daily subscription to the Waco News-Tribune . . . . .	.75	20.85
<b>Railway Express Agency</b>		
<b>Voucher No. 173</b>		
For express packages sent by the Forty-fifth Legislature, Second Called Session.....	.69	.69
<b>Voucher No. 196</b>		
For express packages sent and received by the Members of the State Senate of the Forty-fifth Legislature, Second Called Session....	36.62	36.62
<b>Remington Rand Inc.</b>		
<b>Voucher No. 121</b>		
500 lbs. legal size folders		
500 lbs. letter size folders.....	8.98	8.98
<b>Voucher No. 141</b>		
500 lbs. legal size folders		
500 lbs. letter size folders.....	8.98	8.98
<b>Voucher No. 147</b>		
Rental on six typewriters for one month, September 27, 1937, to October 27, 1937.....	24.00	24.00
<b>Voucher No. 192</b>		
20 quires No. 301 stencils		
10 lbs. No. 21 duplicator ink		
20 quires No. 301 stencils.....	119.00	119.00

Renfro Drug Co.		
Voucher No. 111		
1 gal. denatured alcohol.....	.75	.75
San Angelo Standard-Times		
Voucher No. 132		
1 daily subscription to the San Angelo Standard-Times . . . . .	1.10	1.10
Voucher No. 133		
1 daily subscription to the San Angelo Standard-Times . . . . .	1.10	1.10
Joseph Sartor Galleries		
Voucher No. 105		
Restoration and framing of portrait of President Polk . . . . .	135.00	135.00
The Selig Co.		
Voucher No. 114		
10 gal. can—Hingpine Deodorant.....	10.00	10.00
The Schumacher Co.		
Voucher No. 193		
2 cases No. 392-50/2000 sheet toilet tissue....	6.88	6.88
The Sherman Democrat		
Voucher No. 127		
1 daily subscription to The Sherman Democrat	.65	.65
Olivia Smith		
Voucher No. 154		
Rental on one typewriter from September 27, 1937, to October 27, 1937.....	4.00	4.00
Southwestern Bell Telephone Co.		
Voucher No. 102		
For Toll Calls sent and received by the State Senate and for Exchange Service for the month of September, 1937.....	54.57	54.57
Voucher No. 195		
For Toll Calls sent and received by the State Senate and for Exchange Service for part of the month of September, 1937, and part of the month of October, 1937.....	892.61	892.61
S. S. Stafford, Inc.		
Voucher No. 107		
36 boxes 8½x14 light weight carbon paper—black . . . . .	16.92	
48 boxes 8½x11 black standard weight typewriter carbon . . . . .	18.24	
6 boxes 8½x14 black light weight noiseless typewriter carbon . . . . .	2.82	
6 Underwood blue No. 3 inkings.....	1.14	39.12
Voucher No. 180		
6 Underwood black No. 3 inkings.....	1.14	1.14
The Steck Co.		
Voucher No. 103		
Rent on typewriters used by committees between sessions of the Legislature.....	16.00	16.00
Voucher No. 137		
Letterheads and envelopes.....	15.00	15.00
Voucher No. 138		
50 reams 8½x11-20 Hammermill wove.....	25.26	25.26
Voucher No. 146		
50 reams 8½x14-16 Ham. white wove mimeo...	25.89	
50 reams 8½x14-Amer. O. S. unglazed.....	19.05	
50 reams 8½x11-Amer. O. S. unglazed.....	15.07	60.01
Voucher No. 158		
Rent on 20 typewriters from September 27, 1937, to October 27, 1937.....	80.00	80.00

## SENATE JOURNAL

241

Voucher No. 160		
500 No. 90 (9x12) Dennison Brownseal clasp envelopes . . . . .	5.11	
400 No. 90 Brownseal envelopes . . . . .	4.08	9.19
Voucher No. 167		
Rent on one typewriter from September 30, 1937, to October 30, 1937 . . . . .	4.00	4.00
Voucher No. 170		
36 green desk blotters 19x24 . . . . .	1.76	
20 reams of mimeo Ham. wove 8½x14-16 . . . . .	10.41	
10 reams of onion skin 8½x11 with word copy printed on it . . . . .	4.57	
20 reams Amer. onion skin 8½x14 . . . . .	7.62	24.36
Voucher No. 176		
Letterheads and envelopes . . . . .	61.50	61.50
Voucher No. 179		
2 No. 0 bank daters . . . . .	.60	.60
Voucher No. 181		
50 reams 8½x14-16 Ham. white wove mimeo . . . . .	25.89	
30 reams 8½x14-16 Old Saxon Bond . . . . .	33.53	
200 No. 92 Dennison's Brownseal . . . . .	2.59	62.01
Voucher No. 185		
2 doz. No. 13535 gray composition books . . . . .	3.30	
2 doz. No. 4055-E Nearleather Expansion envelopes . . . . .	5.50	
2 doz. No. 4035-C Nearleather Expansion envelopes . . . . .	4.94	
6 boxes Dennison's No. 2004 gummed labels . . . . .	.60	
6 boxes Dennison's No. 2005 gummed labels . . . . .	.60	
6 boxes Dennison's No. 2 index tabs . . . . .	.60	
6 boxes Dennison's No. 13 index tabs . . . . .	1.02	
3 doz. flexible key chains . . . . .	1.56	
2 doz. Loose-leaf rings 3" . . . . .	.62	
2 doz. Loose-leaf rings 2" . . . . .	.62	
2M sheets B&P No. S-201-1 Plain ring Book sht. . . . .	3.00	
5 doz. No. 4039 Commercial tablets . . . . .	4.50	
2 gross Mongol No. 482-No. 2 lead pencils . . . . .	6.76	
2 gross Spencerian No. 42 gilt dome point pens . . . . .	2.10	
2 doz. pyramid pins . . . . .	2.78	
12 boxes Hotchkiss No. 2-A Staples . . . . .	4.80	
6 boxes Markwell No. RF staples . . . . .	5.46	
6 boxes Hotchkiss No. 6-A stapling machines . . . . .	12.60	
3 B&P No. 9 150-page Record Books . . . . .	2.61	
1 B&P No. 9 300-page Record Book . . . . .	1.34	
1 No. H-52 Hotchkiss stapling machine . . . . .	2.10	
10-M wire staples for Hotchkiss stapling machine No. H-52 . . . . .	1.50	
1 No. 605 Sunruco executive chair cushion . . . . .	3.30	
2 B&P No. S-3312 ring binders . . . . .	2.28	
1M B&P No. S-112-1 plain filler sheets . . . . .	3.78	
Letterheads and envelopes . . . . .	7.00	
500 B&P No. S-210-1 Plain Ring Book sheets . . . . .	.75	
6 doz. No. 6587 erasers . . . . .	3.53	
12 lbs. Steck Giant Easy Clasp letter box files . . . . .	8.98	
24 No. 13535 Boorum & Pease Composition books . . . . .	3.30	
500 sheets No. S-110-2 Faint Price Book Fillers 9½x6 . . . . .	1.32	
2 gross Mongol No. 482-No. 2 lead pencils . . . . .	6.76	
10M gem paper clips No. 1 . . . . .	2.90	
500 sheets No. S-212-2 Faint Price Book Fillers . . . . .	.99	
7 boxes Markwell size No. RF Staples . . . . .	6.37	

12 boxes Hotchkiss No. 2-A staples.....	4.80	
4 gross Mongol No. 482-No. 2 lead pencils....	13.52	
12 boxes Dennison's No. 2001 gummed labels..	1.01	
12 boxes Dennison's No. 2005 gummed labels..	1.01	
3 doz. Liberty No. 12 Storage boxes.....	35.28	
1 gross No. 4034 Commercial tablets.....	3.25	
6 doz. No. 4039 Commercial tablets.....	5.40	
6 doz. No. 4039½ Commercial tablets.....	9.00	
1 doz. bottles Dr. Scat Type Cleaner.....	7.80	
Letterheads and envelopes.....	112.00	313.24
Voucher No. 194		
15 boxes Mss. Covers 9x15½.....	5.32	
50 reams 8½x14-16 Ham. White wove mimeo..	25.89	
30 reams 8½x14-16 Old Saxon Bond.....	33.53	
20 reams 8½x11-20 Old Saxon Bond.....	21.80	86.54
Voucher No. 197		
Letterheads and envelopes.....	201.50	201.50
Vance Stockton		
Voucher No. 104		
Rent on two typewriters by committees be- tween sessions .....	12.40	12.40
Voucher No. 155		
Rent on two typewriters from September 27, 1937, to October 27, 1937.....	8.00	8.00
Eileen Svadlenak		
Voucher No. 156		
Rent on one typewriter from September 27, 1937, to October 27, 1937.....	4.00	4.00
Taylor Daily Express		
Voucher No. 131		
1 subscription to Taylor Daily Express.....	.60	.60
Temple Daily Telegram		
Voucher No. 123		
1 daily subscription to Temple Daily Telegram	.60	.60
Texarkana Newspapers, Inc.		
Voucher No. 187		
1 daily subscription to The Texarkana Gazette	.85	.85
Texas Book Store		
Voucher No. 148		
50 record book sheets.....	.93	
2 record books.....	3.70	4.63
Voucher No. 175		
1 record book.....	1.85	
1 ideal record book.....	1.85	3.70
Voucher No. 183		
50 record book sheets.....	1.63	1.63
Texas School for the Blind		
Voucher No. 113		
7 mops, or porter supplies.....	4.20	4.20
The Times-Herald Printing Co.		
Voucher No. 136		
2 daily subscriptions to The Times-Herald....	1.50	1.50
Tobin's		
Voucher No. 166		
1 spray .....	10.00	10.00
Underwood-Elliott & Fisher Co.		
Voucher No. 172		
Rent on 36 typewriters for one month, Septem- ber 27, 1937, to October 27, 1937, and 3 for part of one month.....	153.32	153.32

## SENATE JOURNAL

343

Voucher No. 118		
Rent on one typewriter for one-half month, September 15 to September 27, 1937, by State Investigating Committee.....	2.00	2.00
United States Postmaster		
Voucher No. 101		
For stamps and other postage for the State Senate for the Forty-fifth Legislature, Second Called Session.....	1,000.00	1,000.00
Voucher No. 169		
For stamps and other postage for the State Senate for the Forty-fifth Legislature, Second Called Session.....	800.00	800.00
Von Boeckmann-Jones Co.		
Voucher No. 162		
For 2600 copies of the Daily Journal 1st day through the 7th day, pages 1 through 76, September 27, 1937, through October 11, 1937, Forty-fifth Legislature, Second Called Session . . . . .	295.14	295.14
Voucher No. 171		
S. B. No. 4, 2 pages (300) copies H. C. R. No. 14, 2 pages (300 copies).....	10.06	10.06
Voucher No. 190		
For 2600 copies of the Daily Journal from the eighth day, October 12, 1937, to and including the sixteenth day, October 26, 1937, pages 77 through 346, Forty-fifth Legislature, Second Called Session.....	938.21	
300 copies of S. B. No. 14, 3 pages		
300 copies of H. B. No. 70, 4 pages		
300 copies of H. B. No. 23, 22 pages.....	72.96	1,011.17
The H. H. Voss Co.		
Voucher No. 112		
2 water pitchers No. 810.....	.67	
12 water glasses No. 374.....	.50	
6 hand mitten mops (Dusters).....	2.70	3.87
R. H. Warren		
Voucher No. 151		
Rent on one typewriter for one month, September 27, 1937, to October 27, 1937.....	4.00	4.00
Western Union		
Voucher No. 140		
For messages sent and received by Members of the State Senate, Forty-fifth Legislature, Second Called Session, month of September, 1937 . . . . .	30.41	30.41
Voucher No. 186		
For messages sent and received by Members of the State Senate, Forty-fifth Legislature, Second Called Session, month of October, 1937 . . . . .	114.40	114.40
Woodman's Shop		
Voucher No. 165		
1 spray . . . . .	5.32	5.32
Joe S. Dunlap		
Voucher No. 130		
2 daily subscriptions for one month to the San Antonio Light . . . . .	1.50	1.50
Total through November 2, 1937.....		\$ 6,505.89

A. W. HOLT,  
Sergeant-at-Arms.

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